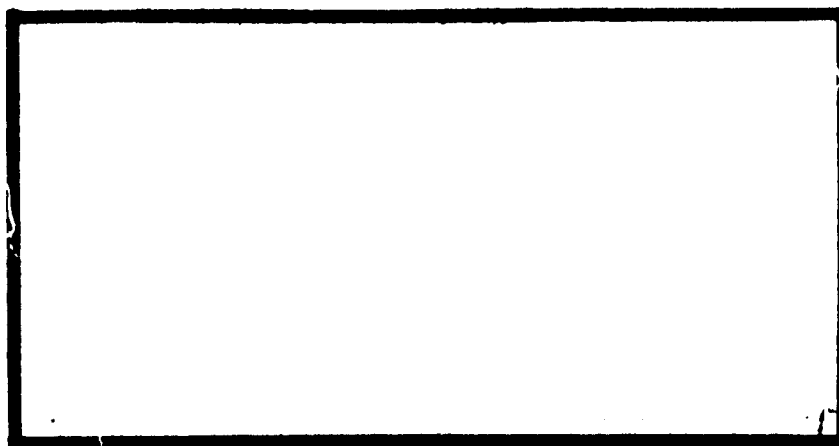


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THE BACKGROUND AND AN ANALYSIS OF THE  
INTERNATIONAL SECURITY ASSISTANCE AND  
ARMS EXPORT CONTROL ACT OF 1976

Edwin W. Rider, Major, USAF  
Fred A. Logan, Captain, USAF

LSSR 11-77B

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↙ Congressional dissatisfaction with the policies and management of United States Security Assistance programs has led to several legislative actions in the past 15 years. The culminating legislation was the International Security Assistance and Arms Export Control Act of 1976. The thesis presents an overview of the world's arm market and examines the U.S. activities in this market. Numerous trends in the U.S. activity which contributed to congressional concern are explored as are several objectionable practices which have become associated with this trade. Legislation in the period 1961 through 1974 is examined to demonstrate congressional efforts at controlling Security Assistance programs prior to legislating the Act of 1976. The provisions of the International Security Assistance and Arms Export Control Act of 1976 are analyzed and the rationale for several of these provisions is included. The initial impact of the Act as it relates to the Congress, Carter Administration, Departments of State and Defense, and industry are indicated. Conclusions are drawn concerning the potential for Security Assistance programs to continue as a tool of American foreign policy. ↗

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THE BACKGROUND AND AN ANALYSIS OF THE  
INTERNATIONAL SECURITY ASSISTANCE AND  
ARMS EXPORT CONTROL ACT OF 1976

A Thesis

Presented to the Faculty of the School of Systems and Logistics  
of the Air Force Institute of Technology

Air University

In Partial Fulfillment of the Requirements for the  
Degree of Master of Science in Logistics Management

By

Edwin W. Rider, BSBA  
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September 1977

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and

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has been accepted by the undersigned on behalf of the  
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fulfillment of the requirements for the degree of

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## CHAPTER I

### INTRODUCTION

During the first half of the 1970s, sales of military equipment and services to foreign governments increased dramatically. In the period 1970 through 1975, foreign military sales (FMS) orders to friendly countries totaled some \$32.33 billion.<sup>1</sup> The 1974 sales were ten times larger than those of 1970 and nearly twice the total of sales for the entire period 1970 through 1973 (107:12-3). These ever-increasing sales volumes, including sales of sophisticated weaponry to lesser developed countries, particularly the Persian Gulf states, did not appear to many in Congress and the public to be in the national interest. There was evidence to indicate the U.S. was becoming deeply involved in the destinies of purchasing countries and U.S. foreign policy flexibility was being shackled by follow-on support commitments. Sales seemed to be self-perpetuating with purchasing countries, such as Iran, voicing interest in aircraft still in the development stage of production (103:VIII). Meanwhile the military assistance (grant) program and its administrative organization remained

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<sup>1</sup>All monetary amounts used in this chapter have been adjusted into FY 1976 constant dollars.

in-being, although on a diminished scale from earlier decades, despite congressional efforts to phase it out of existence (91:12; 100:19). All of the Security Assistance programs were criticized because they "contributed to the seizure and maintenance of power by undemocratic regimes, and to the violation of internationally recognized human rights . . ." by some of these countries (93:11). It was charged that all of these indicators pointed to a lack of policy having been established by the executive branch of government (100:9).

The United States Congress, therefore, became increasingly concerned with the manner in which these Security Assistance programs were conducted. Although the necessity to continue some forms of Security Assistance was recognized as being important (98:217; 100:9), many legislators did not approve of the recent trends. On numerous occasions Congress had amended the existing legislation in an effort to correct deficiencies in the Security Assistance programs, but for one reason or another, these efforts were unsuccessful (101:12). As a result, the executive and legislative branches became adversaries, competing for control of Security Assistance (24:19). The continuing collisions which resulted from such a situation prevented the U.S. from having a coherent and consistent policy upon which the recipient nations could rely (42).

For these reasons, Congress initiated the most significant effort at restructuring Security Assistance in twenty-five years. This significant effort was the enactment of the International Security Assistance and Arms Export Control Act of 1976 (100:8).

#### Statement of the Problem

A need exists to synthesize the legislative history and to analyze the significant contents of the International Security Assistance and Arms Export Control Act of 1976. This thesis consists of the many events which led to passage of the Act of 1976, analyzes the Act's provisions, and provides indications of the legislation's impact on the future of the Security Assistance programs.

#### Definition of Terms

Act of Congress. An Act of Congress is a statute of Congress which originates as a bill introduced by the clause, "Be it enacted . . ." (77:2).

Arms Transfers. Arms Transfers are defense articles and services such as arms and implements of war, including components, training, technical assistance and data, and manufacturing licenses provided under the Foreign Assistance Act of 1961, as amended, and the Foreign Military Sales Act of 1968, as amended, or directly by commercial firms (109:2).



Commercial Sale. Commercial Sale is a sale made by U.S. industry directly to a foreign buyer and not involving the Department of Defense (109:3).

Concurrent Resolution. A Concurrent Resolution is an action of Congress passed in the form of a resolution of one house, the other house concurring, which expresses the sense of Congress or accomplishes some purpose of common interest to the houses. A concurrent resolution is not submitted to the President for his signature and does not have the force of law. In statutes delegating powers to the President, Congress has sometimes stipulated the delegation may be terminated or that action taken by the President may be disallowed by the passage of a concurrent resolution (77:81).

Defense Articles. Defense Articles include any weapon, weapons system, munition, aircraft, vessel, boat, or other implement of war; any property, installation, commodity, material, equipment, supply, or goods used for the purposes of furnishing military assistance; any machinery, facility, tool material, supply, or other item necessary for the manufacture, production, processing, repair or servicing, storage, construction, transportation, operation, or use of any other defense article or any component or part of any articles, but shall not include merchant vessels, major combatant vessels (10 U.S.C. 7307), or as defined by the Atomic Energy Act of 1954, as amended

(42 U.S.C. 2011), source material, by-product material, special nuclear material, production facilities, utilization facilities, or atomic weapons or article involving Restricted data (109:4).

Defense Service. A Defense Service is any service, inspection, test, publication, information, or technical assistance provided for the purpose of military assistance (109:5), excluding military education and training (67:7).

Defense Security Assistance Agency. The Defense Security Assistance Agency (DSAA) is the organizational structure for administering Military Assistance and Foreign Military Sales matters delegated to the Secretary of Defense (109:5).

Joint Resolution. A Joint Resolution is a statute which has the same force as a legislative Act once it has been passed by both houses of Congress and been signed by the President, or passed over his veto (77:206).

Major Defense Equipment. Major Defense Equipment is any item of significant combat equipment on the United States Munitions List having a nonrecurring research and development cost of more than \$50 million or a total production cost of more than \$200 million (89:Sec.215).

Military Assistance Advisory Group. The Military Assistance Advisory Group (MAAG) is the activity within a U.S. Diplomatic Mission which handles security assistance matters. MAAGs include activities formally known as

Joint U.S. Military Advisory Groups, Military Advisory Groups, and Military Missions (109:8).

Security Assistance. Security Assistance consists of all those activities conducted under the authority of the Foreign Assistance Act of 1961 and the Arms Export Control Act of 1976, including:

1. Military Assistance Program (MAP) is the annual program, sometimes referred to as Grant Aid or Grant Assistance, for defense materiel and services for which no reimbursement is expected or required.

2. Foreign Military Sales (FMS) are the sales transactions with an eligible foreign country and containing reimbursement provisions.

3. Security Supporting Assistance is a program administered by the State Department's Agency for International Development. Included within this portion are those grant funds for financing nonmilitary imports into the recipient country (111:2).

4. International Military Education and Training (IMET) is the annual training program which entails no reimbursement. It was once a portion of the Military Assistance program (89:Sec.106).

#### Summary of Literature Review

Programs similar to the U.S. Security Assistance effort are not new, and have been practiced by numerous

countries for a number of years. The United States has had arms exporting programs since the early 1900s. These early programs were limited in scope and time frame use the objectives were less encompassing (30:2-228). The present Security Assistance programs were instituted at the close of World War II to reconstitute the Free World (45:4). They have grown and matured through various legislation, notably the Foreign Assistance Act of 1961 and the Foreign Military Sales Act of 1968 (98:42-217).

The arms transferred under the present programs have contributed successfully to U.S. national interests in a number of important ways. These transfers have enabled friends and allies to defend themselves and to deter aggression. They have cemented good relations and enhanced U.S. influence with recipient nations. They have denied hostile powers, particularly the Soviet Union, the opportunity to gain positions of influence and dominance in many underdeveloped countries (114:18). The Department of Defense has asserted that these programs have promoted equipment standardization among allies, thus improving multinational logistical and operational effectiveness (45:5). Arms sales have improved the U.S. balance-of-payments (46) and contribute to recoupment of research and development costs. The unit costs of weapon systems acquired for American forces are reduced when foreign orders are added to permit economies of scale (45:4).

These and other benefits contribute significantly to the United States, but they are not the basic reasons for conducting Security Assistance programs. From a military viewpoint, the primary purpose of these programs is to reduce the need for direct U.S. military deployments by providing allies with sufficient arms so they possess the means for self-defense (114:Annex 3, p. 1).

At the same time, these programs have entailed costs such as implied commitments and extensive U.S. presence in other countries. They have entailed risks, the most serious of which is the possibility of arming countries whose policies and objectives may become diametrically opposed to those of the United States. They increase the danger of military violence. Some of these costs and risks have conflicted with other national objectives and values (114:18).

In earlier years, the American people were in accord with the Security Assistance programs. But recently, support has deteriorated due to a series of events: the failure of the Vietnamization program (93:11), the general distrust of the federal government (118:16), growing congressional dissatisfaction with the programs' administration (93:12-3), and unfavorable publicity associated with the programs.

Some of the recent publicity has concerned agents' fees (22) and payoffs to foreign government officials by

U.S. arms producers (81:32). U.S. arms deals have been attributed to overly aggressive salesmanship on the part of U.S. arms manufacturers, aided and abetted by U.S. military personnel (11; 103:IX). They are seen as being a cause for increased prices of foreign oil. The contention is that the Organization of Petroleum Exporting Nations (OPEC) countries, particularly Iran, increased oil prices so they could purchase U.S. arms (11; 71:30-1; 103:13), thus contributing to internal U.S. economic problems. As justification, the quadrupling of oil prices subsequent to the Oil Crisis of 1973 is identified with an agreement President Nixon made with the Shah of Iran in May 1972, which allowed Iran unrestricted purchase of U.S. arms (103:VIII,3). The economic problems, and recent balance-of-payments deficits due to purchases of foreign oil, convinced many Americans that involvement in the security arrangements of other countries should be more rigidly controlled. Also, congressional hearings pointed out the belief that Grant Aid continued to be provided to countries which had achieved a position to provide their defense needs from their own resources (93:11).

The International Security Assistance and Arms Export Control Act of 1976 was Congress' attempt to remedy the programs in light of these criticisms, as well as others. Congress believed it was time for it "to assert itself and redress both Presidential excesses and

abdication . . . [92:105]" because sales orders had escalated from \$812.6 million in 1968 to \$5.8 billion in 1973 and \$10.7 billion in 1974 (107:12). Congress attempted to control these sales because it was apprehensive that the U.S. was

. . . a sales promoter of weapons, . . . is peddling nothing more than death and destruction . . . ["merchant of death" syndrome], . . . and is selling weapons to all comers [45:4-5].

In response to this congressional attempt to gain more control, the executive branch sought to maintain the constitutional separation of legislative and executive powers. President Ford vetoed the initially submitted International Security Assistance and Arms Export Control Act of 1976 because of several imposed restrictions that would have seriously inhibited his ability to implement foreign policy (113:III). The veto was partially successful in that of the seven provisions providing for a congressional veto of executive action, only two were retained. However, Congress did not retreat from its basic reform initiatives when getting the second version enacted (93:3).

#### Justification for the Research

The justification for this research is derived from the continuing Department of Defense involvement with, and support of, the Security Assistance programs. The significant contents of the International Security Assistance and

Arms Export Control Act of 1976, as well as the causes for this legislation, need to be reviewed in order to determine the possible effects it will play on the future of the Security Assistance programs. Additionally, the Department of Defense should be better able to tailor future program performance in concert with the intentions of Congress if the reasons for congressional opposition to recent Security Assistance trends are understood.

### Objectives

The objectives of this thesis are to:

- (1) Provide the background of trends and objectionable practices associated with the Security Assistance programs which caused dissatisfaction on the part of Congress.
- (2) Synthesize legislative efforts to correct deficiencies in the programs prior to the passage of the International Security Assistance and Arms Export Control Act of 1976.
- (3) Analyze the International Security Assistance and Arms Export Control Act of 1976.
- (4) Provide some of the implications of the recent legislation for the future of the Security Assistance programs.



## Research Methodology and Presentation

### Research Design

Primary documents used to research legislative activity were the published hearings, reports, and bills of the Senate's Foreign Relations Committee and the House of Representatives' International Relations Committee. Also used were Acts as passed by Congress and incorporated into United States statutes. Supplemental sources used included the Congressional Quarterly Almanac, an annual publication which gives a comprehensive summary of major legislation throughout the year, and the Congressional Quarterly Weekly Report, which presents weekly legislative activity. These sources provided the basis for the legislative synthesis and the analysis of the Act of 1976.

The above sources, supplemented by unpublished studies from military service educational institutions, interviews with personnel of a recipient country involved in Grant Aid and Foreign Military Sales programs, as well as commercial periodicals, books, and newspaper articles, were used to document several trends and objectionable practices. These same sources were the foundation for assessing the effect of the recent legislation on the Security Assistance programs as were a Presidential Press Release (see Appendix C) and a Presidential Report to Congress. In addition, interviews were conducted with personnel within the Department of Defense to determine

the impact of the Act. These interviews were unstructured with the exception of introductory questions. This approach was designed to encourage free expression of factual information and opinions useful to this study.

#### Limitations and Assumptions

One difficulty in conducting research related to foreign policy is the inadvertent disclosure of information which has been classified. To avoid this difficulty, only information available to the general public was used.

The primary purpose for presenting background legislation was to trace congressional attitudes towards Security Assistance. The assumption that congressional attitudes are reflected in legislation and official reports on congressional activity is basic to this research.

#### Plan of Presentation

This chapter has established the background, definitions, and an overview of the subject matter as well as the research justification, objectives, and research methodology and presentation plan. Chapter II presents the trends and objectionable practices of the international arms trade. It provides an overview of the entire market but emphasizes the United States Government and commercial activities. Such trends as the escalation of shipments, increasing sophistication of the arms provided recipient countries, and economic factors are presented.

Additionally, some of the objectionable practices are presented, such as bribery and excessive agents' fees, unusual contractual arrangements, and foreign human rights violations and maintenance of dictatorships.

Chapter III concentrates on recent legislation which preceded the International Security Assistance and Arms Export Control Act of 1976. Both the Foreign Assistance Act of 1961 and the Foreign Military Sales Act of 1968, as well as their respective amendments, are selectively reviewed to show the significant legislative actions attempted to control the arms transfers of the United States. Chapter IV provides a legislative history of the International Security Assistance and Arms Export Control Act of 1976 and provides an analysis of the Act's most important provisions. It concludes with reasons for the adoption of several of these stipulations.

The initial impact which the Act of 1976 has had on activities of industry, the Departments of State and Defense, the Congress, and the actions undertaken by the Carter Administration are explored in Chapter V. Chapter VI concludes the thesis with a summary, conclusions, and recommendations for further study.

## CHAPTER II

### TRENDS AND OBJECTIONABLE PRACTICES ASSOCIATED WITH SECURITY ASSISTANCE

Prior to gaining an appreciation for changes which have been made in security assistance legislation, a background on the international arms trade seems desirable. This chapter focuses on certain trends and objectionable practices associated with the international trade in arms and more specifically, with involvement of the United States in the arms market.

Initially, a brief overview of the international arms trade will be presented, including reasons why nations enter into this market and the resulting consequences of the sale of arms to both the recipient and the exporting nations. The focus will then shift to various trends in the U.S. role in the international arms trade. Such trends as the escalation of sales, shifts in customers served, increasing arms sophistication, significant economic factors, recent multinational involvement, and the scale of commercial sales will be addressed. Some of the objectionable practices that have been identified with U.S. commercial and Government involvement in the arms trade arena will be discussed. These practices include bribery and excessive agents' fees, unusual contractual arrangements,

and foreign human rights violations and maintenance of dictatorships. A brief summary will terminate the chapter.

### The International Arms Trade

The sale of arms has drastically changed in the past two decades. It is no longer the freebooting enterprise of "merchants of death" who peddle weapons and munitions in an unrestricted fashion (52:39). Governments now control the trade and use it as a fundamental element of foreign policy (91:42), "but the arms trade is nonetheless one of the world's largest and fastest growing businesses . . . [52:39]." From \$300 million in 1952, international arms sales reached an estimated \$20 billion in 1975 (79:150). The value of transfers to underdeveloped countries is estimated to have increased 60 percent between 1973 and 1975 (59:142). The trade is increasingly competitive (59:143) with 16 of the 33 economically advanced countries exporting complete major weapon systems (79:150) and some Third World countries exporting or reexporting arms (59:142). As an illustration Israel now sells arms to between 60 and 70 countries (12:iv).

Several governments . . . are going beyond merely licensing arms exports and taking over much of the burden of salesmanship. Britain has compiled a 734-page catalogue of almost every military item that the nation's manufacturers offer, from Corvettes to combat socks. France maintains a permanent exposition near Versailles for the drop-in trade, and published its own three-volume catalogue [27:87].

This activity is alarming to those who have worked diligently for disarmament. Mrs. Alva Myrdal,<sup>1</sup> Sweden's former Minister of Disarmament, clearly reflected the frustration when she stated:

Sheer financial gain clearly outweighs any ethical arguments in favor of restraint. Even so, sales profits are not sufficient to offset military costs more than marginally, not even for France, which has proved ruthless in promoting arms sales wherever it can. Arms sales of \$570 million in 1973 did not compensate for more than some 6 percent of the French military budget for the same year. The corresponding British figures were \$333 million and 4 percent [59:144].

Although the United States is the largest exporter, European countries have reportedly sold more high-performance weapons than has the United States. For example, West Germany's sales to Latin America exceed those of the U.S. to that particular region (59:354). Another country which has been reputed to have increased the level of arms sophistication is the Soviet Union.<sup>2</sup> The Soviets were the first dealer to introduce jet aircraft into the market in 1956, then surface-to-air missiles (1961), surface-to-surface missiles (1973) (52:42), supersonic jet aircraft, and radar-guided guns and missiles (24:19). As a result of these efforts and the bandwagon effect it

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<sup>1</sup>Wife of Gunter Myrdal, who is better known in the United States as an economist and sociologist.

<sup>2</sup>Figure 2-1 depicts the Third World sales volume by four major sellers during the period 1972-1976.

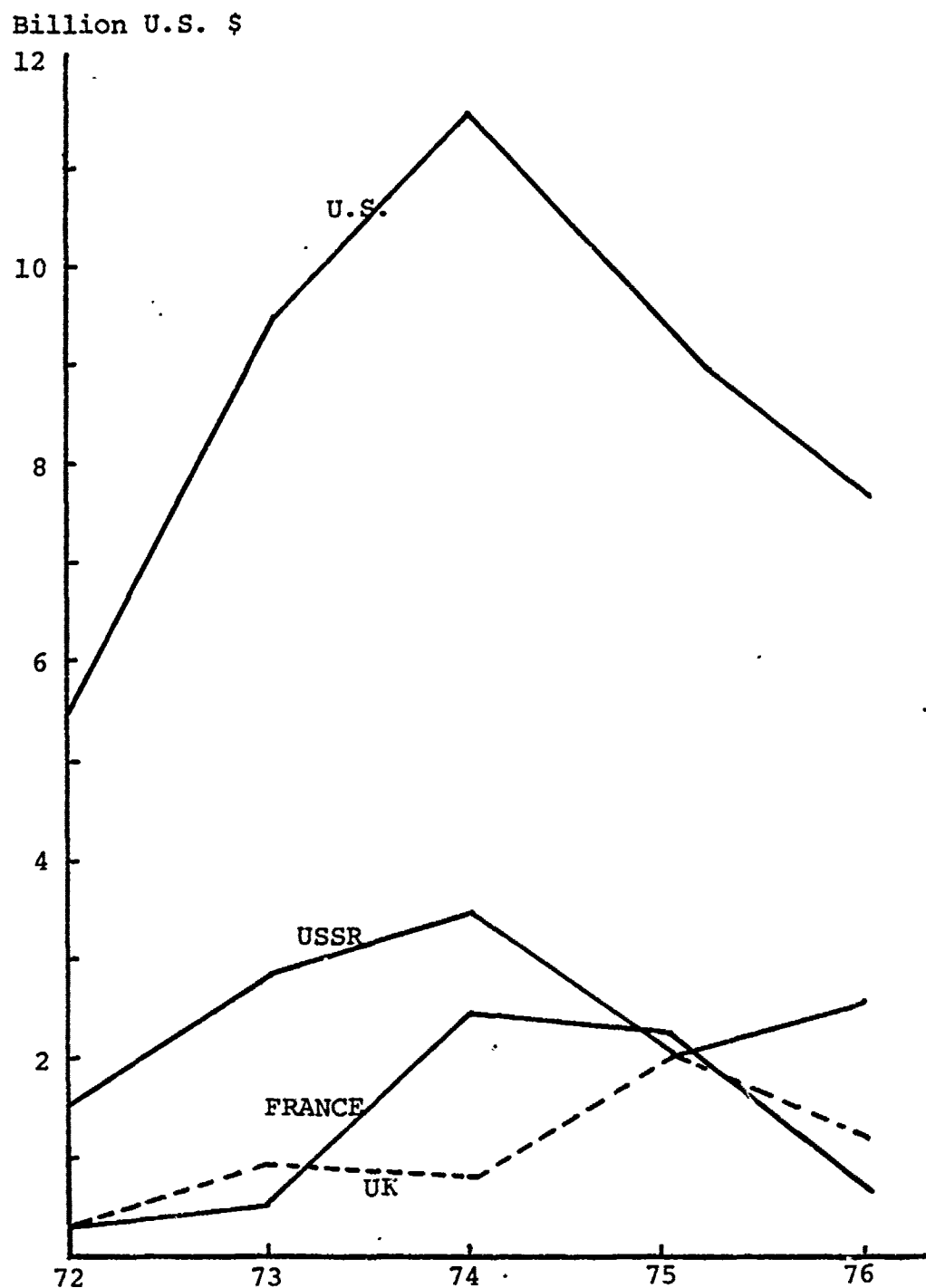


Figure 2-1. Arms Transfer Agreements to Third World by Suppliers, 1972-1975

Source: 114:6

caused, the number of underdeveloped countries with supersonic military aircraft increased from six to thirty-nine within the period 1962 to 1975 (2:44-5).

It is quite likely that one consequence of the easy access to modern arms has been the frequency of local wars within the past 30 years--119 armed conflicts involving 69 nations (52:45). Other consequences of the arms business have been the depletion of resources which has particularly hindered development in the underdeveloped countries, the militarization of nations, and the inability of exporting nations to "avoid the contagion of the tremendous payments for bribes, agents' fees and other corrupt practices infecting the arms traffic [55:143; 59:12]."

A more recent consequence is international, organized terrorism. Such organizations as the Japanese Red Army, the Black September Organization, the Popular Front for the Liberation of Palestine, the German Baader-Neinhof urban-guerrilla group, the Eritrean Liberation Front, the Irish Republic Army, the Basque separatists and numerous other groups of similar persuasion have adversely affected the daily lives of a large proportion of the world's citizenry and affected relations between nations. These terrorists have become better equipped with sub-machine guns, surface-to-air missiles, and infrared guided rockets. As examples, a U.S. Army hand grenade was used in the Paris, France, Le Drugstore bombing on September 15,



1974. In early 1976, Nairobi, Kenya police surprised terrorists erecting a rocket launcher with which to destroy an El Al airliner. These weapons allegedly are provided by certain governments which derive financial and political advantage from such support. However, these arms can also be obtained by pilfering legitimate arms shipments.

Other considerations apparently intervene to necessitate entering into arms delivery agreements despite the disadvantages. Some of the vital interests an importing nation must consider carefully are its responsibilities to maintain internal order and to defend its territorial integrity (91:7); to establish a military force without diverting excessive internal industrial capacity from civilian needs (22); to standardize its equipment with that of its partners in multilateral defense arrangements (45:5); and to provide for a level of security so that negotiations can be conducted on even terms with historical adversaries (9).

Politico-military and economic factors are considerations determining an exporting nation's participation in the arms trade (40:11). The politico-military considerations include assisting allies in meeting multilateral treaty obligations, attempting to influence regional power balances to the exporter's advantage, and the exporter gaining of political leverage in other countries (40:11-2). Economic benefits to exporting nations include improvement

in international balance of payments, cost sharing in weapons systems research and development, and strengthening the exporter's arms industry by using slack productive capacity, lower unit costs, longer production runs, and fuller employment (30:9; 40:15).

#### U.S. Security Assistance Trends

The United States security assistance program has been criticized recently because it is "out of control and . . . poorly managed [103:XIII]." The U.S. failure in Vietnam (93:11), the general distrust of the federal government (118:16), and a number of identifiable trends have contributed to the critics' dissatisfaction with the program. These trends are: sales escalations, a shift in customers, increasing arms sophistication, U.S. economics, multinational involvement, and commercial sales.

#### Sales Escalations

In fiscal year 1974, foreign military sales totaled \$8.2 (10.64) billion.<sup>3</sup> The fiscal year 1970 sales and fiscal year 1973 sales were \$.9 (.967) billion and \$3.8 (5.67) billion respectively (37:14). These sales increased

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<sup>3</sup>Cost figures used in this section are those from the cited source. They precede cost figures in parenthesis which are the adjustments into FY 1976 dollars, extracted from the Defense Security Assistance Agency Fact Book, December 1976. These latter figures are more useful for comparative purposes because they eliminate inconsistencies from using unadjusted figures or figures adjusted to various base years.

1200 percent during the period 1968 to 1975 (40:11). Such statistics show the most dominant trend in the U.S. Security Assistance program: a dramatic increase of sales through Foreign Military Sales (FMS) procedures. As recipient Grant Aid countries became more economically advanced during the 1950s and 1960s, they were able to pay for weapons acquisitions. The United States reacted to this economic development by revising sales legislation and aggressively pursuing sales of military equipment. The adverse U.S. balance-of-payments existing in the early 1960s, partially attributable to the costs of maintaining military forces overseas, contributed to the shift to sales (55:96-6). Throughout the decade and into the 1970s, as other countries became economically developed, they were transitioned to the FMS source method by initially providing support through the Grant Aid provisions, then gradually changing to a mixture of grants and sales, and finally becoming dependent on FMS for all U.S. Government provided arms (102:35). As a result, the number of countries which had participated in FMS increased from 67 in 1967 to 87 by 1976 (107:12-3). The number of grant aid countries decreased correspondingly, from 38 in 1967 to only 19 in 1976 (107:17-8) and a maximum of 12 authorized for 1977<sup>4</sup> (96:2).

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<sup>4</sup>More than 68 countries and international organizations participated in MAP between 1950 and 1976 (107:17-8).

The sales figures for 1970 and 1973 might lead to the conclusion that the U.S. arms shipments had greatly increased in that time period. However, such a conclusion would be faulty because sales constituted only one portion of the Security Assistance programs. The other portions were Grant Assistance and Military Assistance, Service Funded (MASF). MASF had been developed to assist South Vietnam, Laos, Thailand, Korea, and the Philippines with funds from the Defense Department (53:61). In the period between 1970 through 1972 these other portions constituted a greater proportion of the total program than did sales (53:61; 107:12-8). Not until 1973 did sales orders exceed the other two portions of security assistance (107:12-18). Figure 2-2 compares the annual amounts of each type security assistance.

The significance of the increased sales figures is the ineffective control the legislative branch could exert on cash sales. These cash sales amounted to \$6.6 (7.74) billion in fiscal year 1974 of which \$3.8 (4.37) billion was to Iran and \$.6 (1.9) billion to Saudi Arabia (37:14). Congress controlled the grants, the MASF, and the credit and guarantee sales by authorizing and appropriating their funding but had no legal technique to monitor or control the cash sales (37:14).

The Departments of State and Defense attempted to counter sales criticism by showing that inflation and

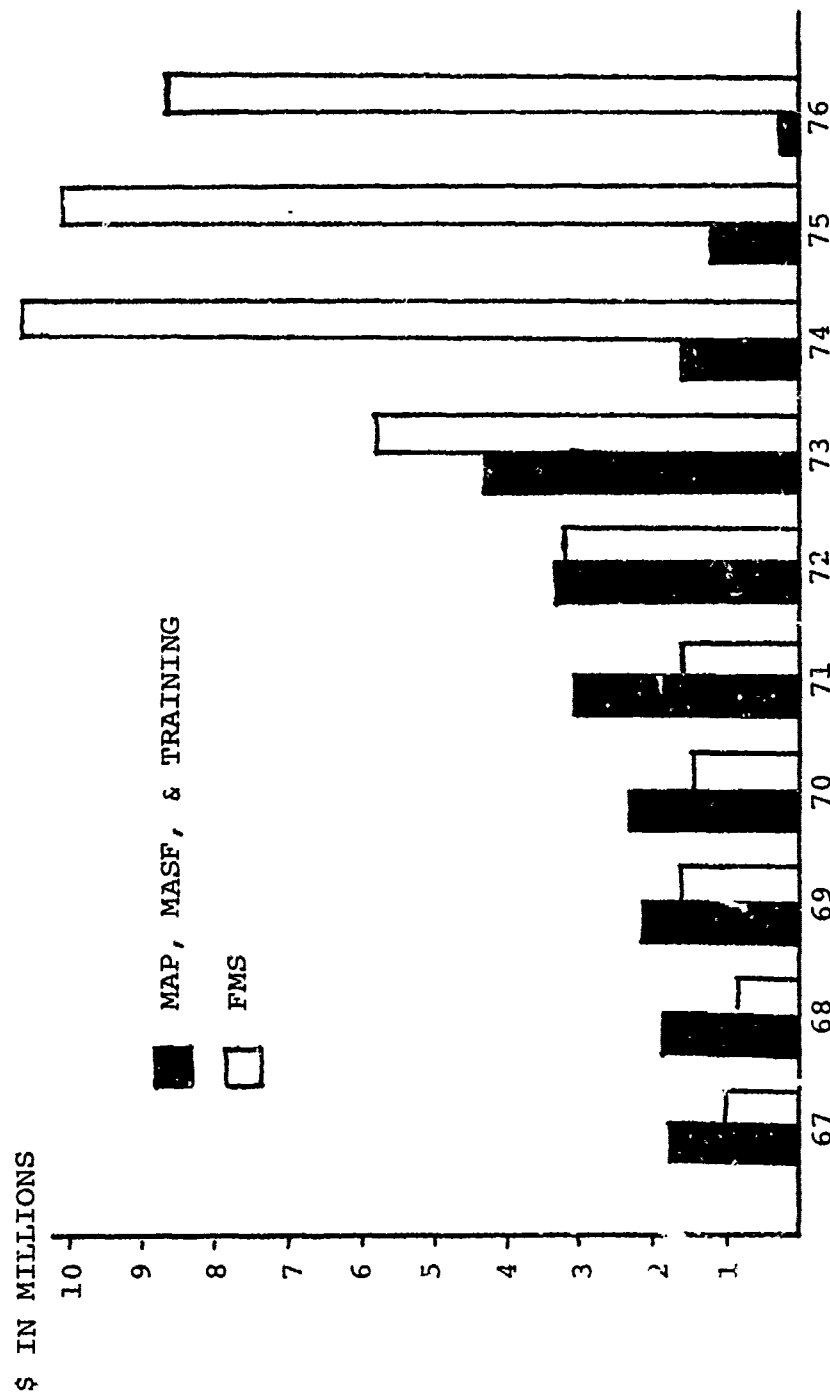


Figure 2-2. Comparison of Annual U.S. Programs in Constant 1976 Dollars

Source: 107:8-26

the impact of increased arms sophistication had offset the apparent increase in the total Security Assistance programs to the point that an actual reduction had resulted. In an appearance before the Subcommittee on International Political and Military Affairs of the House Committee on International Relations, Under Secretary of State for Political Affairs Philip C. Habib testified:

I would like to make one general comment that applies to all . . . [requests to purchase arms] . . . it simply costs a vast amount more today to erect an adequate defense than it did 20 or even 5 years ago.

Not only does sophistication add substantially to the price, but there is a constant rise in costs owing to inflation. In the early 1950's when our security assistance program almost wholly consisted of grants, we provided allies with equipment worth about \$5 billion a year; in today's prices that would be well over \$10 billion a year--higher than today's sales figures. So from the inflationary point of view alone, the dollar values of today's arms transfers are not out of line with those of earlier periods.

More significantly, the actual number of weapons systems transferred is smaller in many cases because of the high unit cost of sophisticated weapons. As an example, the most modern jet fighter available in the 1950's would have cost about \$700,000 in fiscal year 1975 dollars; today's most modern jets cost 10 or 15 times that figure. The cost of even far less exotic hardware, such as tanks, has more than doubled owing to increasing sophistication.

In short, because of both inflation and sophistication a billion dollars buys far less than in earlier years [17:447].

The impact of the increasing levels of sales upon the Department of Defense has been an ever-increasing proportion of the military services' acquisition activities being devoted to procurements for customer countries rather than for the U.S. armed forces. For instance, in fiscal

year 1975 Army procurement for its own forces amounted to \$1.1 billion while \$1.9 billion in FMS procurements were ordered. Similar situations were being experienced by the Navy and Air Force. By 1976, the USAF's FMS acquisitions exceeded \$4.62 billion whereas the size of this program in 1968 was \$500 million. The Navy's FMS acquisitions amounted to \$175 million in fiscal year 1969 and \$3.8 billion in 1974 (52:42).

Emphasis on foreign sales seriously interferes with the acquisition programs for U.S. armed forces according to a special Department of Defense advisory group. Even with such a warning,

. . . as of January 1976, Deputy Defense Secretary William P. Clements, Jr. . . . [insisted] . . . that foreign military sales . . . [would] . . . remain a top foreign policy priority for the next 15 years . . . [80:9-10].

#### Shifts in Customers

Another trend is the shift in the major buying countries. Prior to 1970, developed countries were the largest purchasers (40:12). However, with the emergence of the oil-rich nations within the Middle East, such countries as Iran and Saudi Arabia, became major participants. By 1974, for example, Iran became the largest FMS customer for the entire fiscal years period of 1950-74, largely because of massive buys in FY 1973 and FY 1974 amounting to \$2.104 (2.157) billion and \$3.794 (4.373)

billion respectively. The second largest cumulative customer, Germany, trailed Iran by more than \$2 (3) billion (53:66). Figure 2-3 shows all FMS agreements for 1967 through 1976 with major customers' portions segmented.

Iran's emergence as a major customer may be partially attributed to an alleged Presidential decision during May 1972 to allow the Shah to purchase anything he wanted. If true, this decision eliminated the review by Departments of State and Defense as to the appropriateness of the purchases to meet the threat of the country and as to being in the best interest of the United States' foreign policy (103:XIII). However, another reason has been cited for the increased sales to Persian Gulf nations: the withdrawal of Great Britain's forces from this region in 1971 (24:19).

#### Increasing Arms Sophistication

As mentioned previously, an increased sophistication has contributed to increases in the monetary value of arms exports. There are also other consequences of sophistication which are important to the Security Assistance programs.

Technological changes in weaponry are due to two related phenomena. First, there is the turnover rate of weapons generations, the time span between the "state of the art" weaponry. The second phenomena involves changes in performance characteristics within the life of a system.



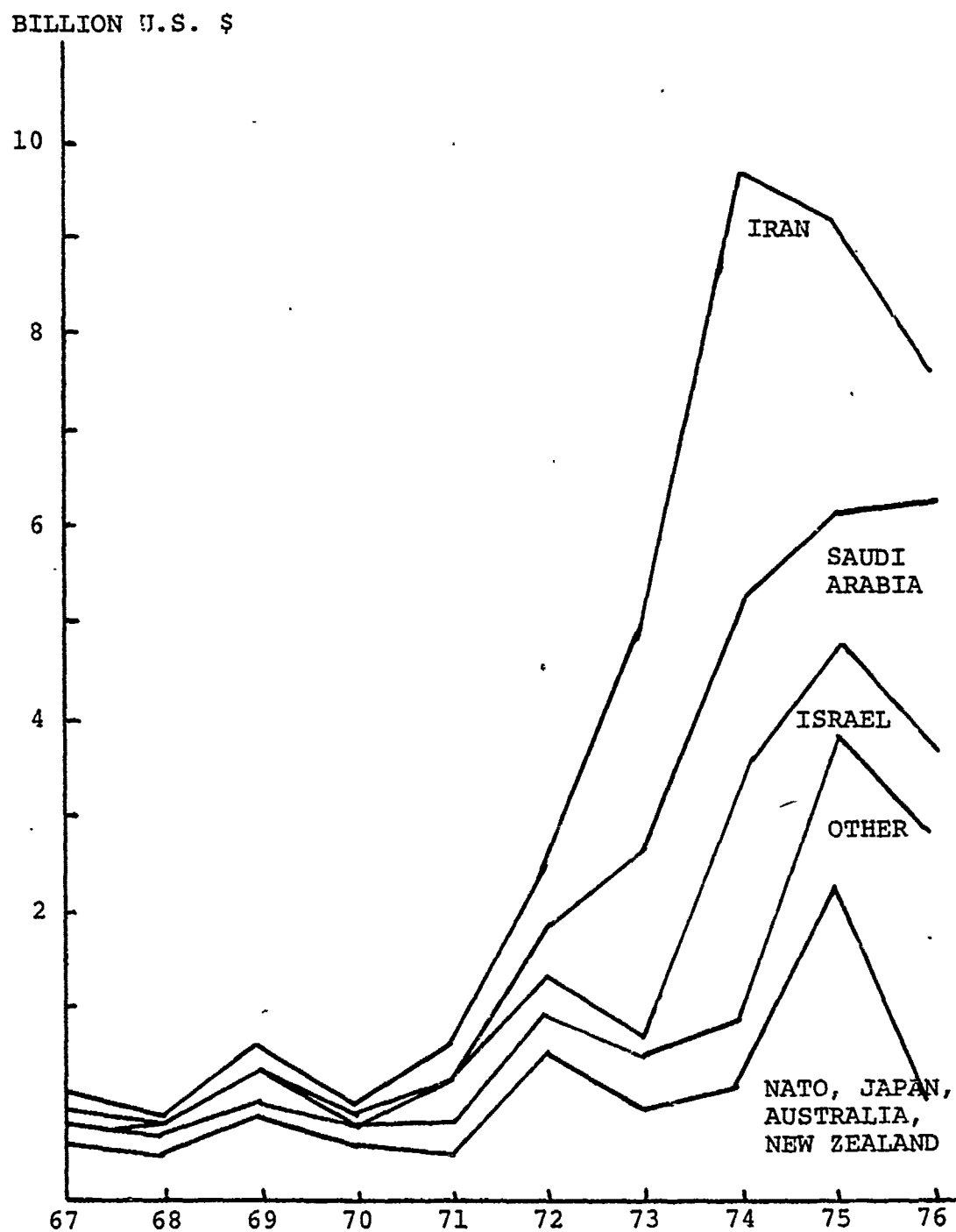


Figure 2-3. FMS Agreements

Source: 114-11

The turnover rate in most major weapon systems since World War II has slowed. For instance, "the United States has gone through only five or six recognizable generations of fighter aircraft . . . [30:41]." Other major aircraft manufacturers, including the Soviet Union, have produced a similar number of generations (30:42). Several issues arise from this turnover trend. First, the United States no longer has an inventory of outmoded equipment to redistribute. Consequently, recipient countries are sold systems which are similar or duplicates to those used in the U.S. armed forces (80:12-4). Second, the United States enters a long-term commitment because a moral obligation is imposed to support sales throughout their life. "This life cycle support has military, political, economic, and sociological implications which are not easy to anticipate and may eventually create new problems . . . [103:XIII]" because the participating country retains the systems for an extensive period. Third, there is the "back-end" problem. Since many of the weapons are very complex, the U.S. needs to provide large training and support staffs. "By 1980, it is estimated, as many as 60,000 U.S. advisors and their families will be needed in Iran alone . . . [52:40]" for such a support role.

This growth in the number of U.S. advisors is in contrast to the total MAAG manning. As a result of annual reviews and legislated reductions (23), the total MAAG

authorized strength has been reduced from 7,200 U.S. Government personnel in 1960 to 1,827 in 1975, 1,622 in 1976 (102:46) and to 1,455 in 1977 (19). The advisor increases forecasted are a result of civilian contractor teams (95:2-7), government manned Mobile Training Teams, and large Technical Assistance Field Teams. All these teams can be provided through FMS procedures (103:35). Not only do these teams provide the training and support required because of the slow turnover rate but, addedly, they become involved in systems modifications purchases to extend the operating capability or lifetime of a system as identified in the second phenomena of sophistication (i.e., changes in performance characteristics). Some authorities see a danger in having a large American community in a recipient country because they believe the U.S. might be drawn into a conflict to protect these citizens or, alternatively, the host nation may hold these Americans hostages to prevent the withdrawal of U.S. support contemplated as a result of the host country violating stipulations which accompanied previous sales or grants (103:51-3).

Another danger with having sold sophisticated, latest "state of the art" weapons systems to other nations is unfriendly takeover. There is the risk that a government, which is supplied U.S. arms similar to those used by U.S. armed forces, will be overtaken by an unfriendly regime, either from within or by external forces. The

consequence could be a thorough examination of U.S. equipment by technicians from countries which are potential adversaries of the United States and its allies (52:40). An example of this situation may have occurred after the South Vietnam collapse in 1975. In that case, Communist Vietnam became an instant military power by acquiring 430 UH-1 helicopters, 73 F-5 and 113 A-37 combat aircraft, 10 C-130 transports, 791,000 M-16 rifles, 15,000 M-60 machine guns, 63,000 light antitank weapons, 12,000 mortars and recoilless rifles, 550 tanks, 1200 armored personnel carriers, 42,000 trucks, and 940 ships and boats. Communist Vietnam became owner of more aircraft "than the combined air forces of all the other countries in Southeast Asia . . . [and the Navy] . . . second numerically only to that of China in the Far East [32:39]." The seriousness associated with indirectly providing such a massive weapons inventory to an adversary of countries friendly to the United States is obvious, even when consideration is given to the impossibility of the Communist Vietnamese employing all these arms for lack of training and spare parts. The ramifications resulting from technicians studying these arms to develop countermeasures are more difficult to assess.

A final aspect associated with increasing sales of more sophisticated systems, acting in conjunction with increasing efforts on the parts of multinational defense

partners to standardize weapons systems, is the resulting purchases involving research and development. FMS has increasingly moved forward in the life cycle of the weapons system acquisition process. Originally many sales and grants involved systems being phased out of the exporting nation's forces. As a result, the transfer was a method of disposal. Later, operational systems were also provided recipient countries as well as the exporter's forces. In recent years, sales have been consummated while the system was in the early development phase of the acquisition process and in at least one case, a weapon system, the F-5, was developed solely for recipient nations. With the F-16, recipient nations are becoming involved at the earliest stages of the acquisition process (53:61-9).

#### Economic Trends

In 1974, exports of military systems supported the employment of 350,000 persons, including 130,000 direct employees on the payrolls of U.S. defense contractors (120:9). Approximately \$2.50 in secondary business within the United States is derived from every dollar spent in FMS (45:4) because of multiplier effects on personal income and corporate profits (74:228-30). Sales of F-16 aircraft are estimated at 2,000 to 3,000 over the next twenty years and are expected to create 65,000 jobs within the U.S. as well as provide employment for 25,000 in four European

countries which have entered into a coproduction arrangement for this aircraft (62:66).

Even if sales were terminated in 1977, the U.S. employment would continue for approximately five years because of the undelivered commitments presently contracted (105:3). But if the FMS program had been discontinued in 1976, the U.S. gross national product would decline by \$20 billion within five years and increase unemployment by .3 percent according to a study by the Congressional Budget Office which assumed a continued \$8 billion sales level (105:(1)). In a different study, the same agency focused on the savings to the Department of Defense from an \$8 billion FMS annual sales level. These savings lessen the burden on the American taxpayer and amount to \$650 million annually of which \$160 million is attributable to research and development recoupments (104:(IX)).

The workload placed upon the military services is also important. The Vice Commander of the Air Force Logistics Command gave an indication of this workload when he commented that by 1980, fifty percent of the aircraft supported by the USAF logistics personnel would be owned and operated by foreign countries (72). A similar increased workload is being experienced by the Air Force Systems Command which administered \$7.8 billion in current programs in fiscal year 1976 compared to \$2.6 billion in fiscal year 1972. These are substantial portions of the entire

Air Force FMS program which was \$13.9 billion, including backlogged deliveries, in fiscal year 1976 and \$4.4 billion in 1972. Systems Command monitored 405 open cases in 1976 including 119 for Iran, 51 for Israel, and 34 for Germany (25:32).

Military export sales contribute to U.S. economic health by using defense industries' slack productive capacity. These arms producers consign total output to the U.S. armed forces during wartime. In peacetime, however, there is insufficient business to keep all these firms performing at capacity, so they must obtain large export orders or experience excessive reductions in productivity and employment. This type crisis occurred in the early 1970s with the cutback on Vietnam war spending by the Department of Defense; aerospace industry employment declined from 1.5 million in 1968 to 900,000 a few years later (40:15).

Foreign military sales constitute an important tool for improving America's balance of payments position because they are one of the few enterprises entirely controlled by the federal government. Although the sales value may be small<sup>5</sup> in comparison with the total U.S. foreign trade, it can be quite significant in offsetting a balance of payments imbalance. In December 1973, the

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<sup>5</sup>FMS constitute seven percent of total U.S. exports (23).

Organization of Petroleum Exporting Countries (OPEC) quadrupled the price of crude petroleum, adding an estimated \$16 billion to America's 1974 oil import bill. The increase in oil prices affected not only the balance of payments but also "the very survival of the world capitalist system . . . [40:16]" because the Middle East oil countries were accumulating oil payments faster than they could spend them on internal economic development. As a result, the OPEC countries collected \$42.2 billion more during 1974 than they could spend internally. These extra funds ended up in short-term accounts within major banks, worldwide.

Such huge concentrations of capital represent a major potential threat to international monetary stability. Even \$10 billion, if unloaded on the money market all at once, could precipitate a major financial crisis. Thus a major goal of U.S. policymakers is to "repossess" these petrodollars by persuading the OPEC countries to increase their spending of U.S. goods and services. . . . Since weapons are among the few high-priced commodities sought by Arab leaders, Washington has flooded the Middle East with costly, sophisticated arms [40:16].

#### Multinational Involvement

Another growth trend in the Security Assistance program has been the increasing joint involvement by more developed nations in the production or assembly of selected systems. As these more developed nations acquired the technical skills and facilities to provide partial industrial support for their defense requirements, sharing the production efforts became feasible through coproduction



arrangements. This coproduction obviated the concern of the adverse currency flow resulting from foreign purchases and assured internal employment opportunities. Such arrangements have been negotiated at the intergovernmental level with subsequent intercorporate agreements. The extent of such agreements results in long-term commitments between the involved governments.

An early example was a coproduction program begun in 1962 with Italian production of the M-113 Armored Personnel Carrier and existed for several years with gradual assumption of greater manufacturing responsibilities by the Italians. The success of this project pointed the way for other nations to become involved in similar projects: Germany produced the F-104 and F-4, Taiwan produced the F-5, and Japan produced the F-4.

The F-16 aircraft coproduction arrangement is of greater complexity than previous agreements. It has been negotiated among several nations simultaneously producing the system for use by all the participants as well as selling the system to other nations. The European Participating Governments, frequently referred to as the EPG, of The Netherlands, Belgium, Norway, and Denmark are guaranteed sufficient economic returns from the project to offset the expense incurred by acquiring the system for their forces. The United States is committed to purchase

650<sup>6</sup> aircraft under the program and to fulfill other obligations such as continuous supply support for the life of the weapon system (13:114-27; 65:15-20).

Although primarily restricted to the economically advanced countries, coproduction agreements for individual military items have been negotiated with lesser developed nations. During 1976, for example, the Indonesian government opened a factory to assemble a U.S. Army field radio to supply its own army (61).

Coproduction arrangements benefit participating nations by contributing to force modernization through receipt and use of more advanced technology at reasonable prices, by building technical support while increasing military strength by expanding the possibilities for multinational operational capabilities through standardizing equipment and the resulting logistical procedures, and establishing a productive industrial base while providing employment opportunities.

Multinational involvement is not confined solely to the coproduction arena, either. Other cooperative logistics programs include Supply Support Arrangements (SSA) and Maintenance Support Arrangements (MSA).

The SSA is comprised of two foreign military sales cases between the U.S. and one other country to provide

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<sup>6</sup>Subject to U.S. Congressional authorization and appropriations.

effective spares support for an extended time. It permits the integration of the recipient country's requirements into those of U.S. military needs so price advantages are obtained via quantity discounts. The recipient country is allowed to draw upon supply stocks at U.S. depots to a greater degree than is legally possible through other foreign military sales procedures. When taken in the aggregate, the individual arrangements of the various countries constitute a multinational sharing of supply stocks stored with the United States so the individual participating countries can effectively operate their equipment with reduced reliance on in-country stock storage (66; 110:1-9).

Similarly the MSA foreign military sales case permits a nation to achieve a higher support posture at reduced initial investment. The MSA permits reparable assets to be repaired at U.S. military maintenance facilities so these facilities do not need to be duplicated. Such participation permits more economical scheduling and repair processing of both U.S. and friendly government assets (65: 13-5). Perhaps as an outgrowth of this program, some recipient nations have entered arrangements to assist one another in the repair of weapon system components (116).

#### Commercial Sales

From 1962 and until the passage of the International Security Assistance and Arms Export Control Act of 1976,

legislative emphasis had been to encourage sales to foreign governr - through commercial channels rather than through DOD (121:92). Despite legislative provisions restricting DOD competition with U.S. industry in processing such sales, FMS deliveries have exceeded commercial exports each year. For example, FMS deliveries were between 3.1 and 5.8 times the value of commercial exports each year between fiscal years 1967 and 1975 (107:14-16). The failure of commercial enterprises to obtain a larger share of the arms export market can be attributed to several advantages a recipient nation obtains through FMS channels. One advantage is contract administration; commercial sales agreements necessitate the purchaser to identify sources and administer the delivery and payments terms. These administrative details are simplified or eliminated whenever items are obtained through FMS procedures. Additionally, resorting to commercial channels frequently introduces difficulties in assuring compatibility of the purchased items with the system upon which it is intended to be used. Obtaining proper technical data such as operators' manuals, repair procedures, and parts catalogs, may pose problems which are not encountered when acquiring standard devices through the U.S. military logistics systems. And, finally, the initial and follow-on spares support arrangements which can be negotiated through FMS permit greater standardized logistics operation in the purchasing nation's

armed forces than would be possible when dealing with a number of U.S. commercial firms (116).

With increasing arms sales resulting in Congressional attention, legislative emphasis has shifted from encouraging major purchases through commercial channels to a requirement that they be controlled through oversight provisions applicable to federal agencies. This aspect of the International Security Assistance and Arms Export Control Act of 1976 will be addressed in Chapter IV.

#### Objectionable Practices

The forces leading to objectionable practices in the international arms trade are the economics involved and the power that central governments acquire when they have strong, well supplied armed forces. The economics of arms trading has led to bribery, excessive agents' fees, overly aggressive arms salesmanship, and questionable practices by arms contractors due to agreements entered into. The power of armed forces has fueled suspension of human rights and supported retention of dictatorships.

#### Bribery and Excessive Agents' Fees

In the probe of the 1972 Presidential campaign, the Watergate Special Prosecution force uncovered several corporate slush funds concealed from normal corporate accounting controls. Several corporations paid fines and the cases slipped from the headlines temporarily (63:70).

However, the Securities and Exchange Commission (SEC) in a separate probe over the past three years revealed over 300 companies spent \$400 million in bribes overseas (8). These corporate bribes were not entirely in the international arms arena, but several large aerospace corporations were involved--Northrop and Lockheed in particular. The Lockheed and Northrop bribery revelations are a prime example of arms trade questionable practices.

The SEC charged Lockheed with having disbursed up to \$225 million in questionable payments since 1967 without adequate records as to purpose or service performed (84:2576). These payments are believed to be in the areas of bribes and fees, and have caused international complications. The SEC was interested in any bribe produced income due to the difference in investor risk versus income generated by free market competition (15:244).

Threatening court action, the SEC encouraged voluntary corporate disclosure which began in July 1975. Since that time Lockheed has admitted payments since 1968 of \$22 million in outright bribes and \$202 million in "additional" payments (50:30). The president of Lockheed, A. Carl Kotchian, stated that the money was in the form of sales or agents' commissions and that several countries were involved (41:15).

Lockheed payments to Japanese officials included \$2.4 million in 1972 to Yoshio Kadama, an influential

rightwing political leader, to influence the purchase of Tristar L-1011 aircraft by All Nippon Airways, and \$1.7 million to former Prime Minister Kakuei Tanaka (15:244). The latter disclosure touched off a political scandal in Japan that led to Tanaka's imprisonment and the government's appointment of a special board to study bribery (41:15).

Prince Bernhard, husband of The Netherlands Queen Juliana, is believed to be "the high Dutch official" who Lockheed admittedly gave \$1.1 million to influence the sale of aircraft (18:15). His connection with Lockheed was probably due to his positions as Inspector General of the Dutch Armed Forces, and a member of the board of KLM Royal Dutch Airlines and Fokker-VFW aircraft company. The Lockheed scandal in Holland spread fear that Queen Juliana might be forced to abdicate her throne because of her husband's indiscretions (50:28-9).

Italy was also involved with Lockheed and questionable payments. Luigi Gui, a former Defense Minister, alleged to have received some of the \$2 million in bribes rendered to obtain a \$60 million contract for C-130 aircraft was excluded from a new Italian Cabinet in early 1976, and the Italian Air Force Chief of Staff was arrested because of the payoffs (20:14).

Lockheed also admitted making payments to Turkey, Colombia, South Africa, Nigeria, Spain, Sweden, and Germany (50:26-30). The reasons for the payments are contained in

Lockheed's financial crisis of recent years. The company has been staggering since the late 1960s even though it is the largest defense contractor in the U.S. (50:30). Large foreign sales were seen as necessary to finance the large amount of debt the company had outstanding (\$595 million as of February 1976) and due by 1978 under complex credit agreements (21:15).

Secretary of State Henry A. Kissinger admitted the State Department had been aware for some time of the payments Lockheed was making to further aircraft sales. He stated that revealing the names of those countries and officials involved in questionable foreign payments would damage U.S. foreign relations (39:17). The disclosure of the Lockheed payments and other payments has caused bitter reaction from foreign governments, and hindered Lockheed when its Japanese agent severed all contact with Lockheed as one consequence of the scandal (21:15-7; 119:58).

Northrop is the other example of an arms dealer heavily involved in bribes and excessive agents' fees. Northrop's story involves \$30 million in a tangled web of a dozen countries, discreet consultants, Middle East princes and European statesmen (43:65). One segment of the Northrop scandal was a \$450,000 bribe allegedly paid to Adran Khashoggi, a Saudi Arabian sales agent, which was earmarked for successive chiefs of staff of the Saudi Arabian Air Force (43:65; 64:178). At one point in 1975, Khashoggi, as



agent for Northrop in an \$850 million military maintenance contract for F-5 aircraft in Saudi Arabia, stood to make \$45 million in commission. The news media reported that the Department of Defense felt the fee was excessive (58:70).

The list of corporations involved in the bribery and questionable payments is quite lengthy. As an example, Table 2-1 portrays large Department of Defense contractors and the size of their questionable payments in recent years. Even more recent examples of kickbacks and fees are the \$28 million fee due to General Hassan Toufanian, the Iranian vice minister of war, generating from the Grumman corporation sale of \$2.3 billion in F-14 aircraft (28:17), and an alleged \$8 million sale of radios to South Korea by the E-System Corporation that included a \$1 million kickback and laundry of funds for use by the Korean CIA to bribe American Congressmen (60).

The revelations of corporate bribery and the magnitude of the payments led to U.S. Government action as the discussion of the SEC probe illustrates. Other government actions included legislative and executive branch efforts.

The legislative branch effort to deal with corporate bribery centered in the work of two Senators--Senator Frank Church (D., ID) and Senator William Proxmire (D., WI). Senator Church, as chairman of the Senate Foreign Relations' Subcommittee on Multinational Corporations, held hearings on

TABLE 2-1  
SELECTED DEFENSE CONTRACTORS INVOLVED IN BRIBERY WITH RANKING FOR 1973 (83:2334-7)

1973 Rank Among DOD Contractors	Company	Questionable Overseas Payments	Years in Which Payments Made
1	Lockheed Aircraft	\$25,000,000	1967-75
3	United Technologies	2,040,000	1973-75
4	McDonnell Douglas	2,500,000	1971-76
10	Rockwell International	676,300	1971-75
12	Northrop	30,704,400	1969-75
19	Exxon	56,771,000	1963-75
23	Honeywell	1,840,000	1971-75
38	General Telephone	13,257,483	1971-75
46	Goodyear	846,000	1970-75
71	Gulf Oil	6,900,000	1960-73
100	Ashland Oil	679,500	1967-74

bribery charges through most of 1975 and 1976. The resulting disclosures identified the magnitude of questionable overseas payments. The Subcommittee warned prophetically during May 1975 that widespread bribery by U.S. corporations could trigger major political repercussions (15:244). In the subsequent hearings, more disclosures occurred and on February 4, 1976, the Subcommittee triggered the realization of its own prophecy with release of documents revealing payments by Lockheed to Japanese individuals and special interests (15:244).

On March 12, 1976, Senator Proxmire introduced legislation in the Senate to outlaw overseas bribes. As introduced, the bill would have outlawed corporate bribery to foreign officials and empowered the SEC to bring criminal actions against violators. It would have required firms to keep accurate accounting records subject to inspection by the SEC and would have required periodic disclosure of all payments to foreign officials in excess of \$1000 (15:245). The Bill passed the Senate by an 86-0 vote and was referred to the House of Representatives' Interstate and Foreign Commerce Committee. This committee did not act on the bill during 1976 (15:247).

Meanwhile the executive branch was initiating action in response to the bribery and excessive fees allegations. In February 1976, President Ford ordered a review of overseas activities by U.S. corporations (41:15).

Another executive branch initiative was the instructions to the Internal Revenue Service (IRS) by Treasury Secretary William E. Simon to intensify and broaden its investigation of overseas payments (41:15). The primary problem encountered by the IRS was in detecting the payments as they were often disguised in company books as legal services, loans, insurance costs, and bonuses and were distributed through foreign subsidiaries, dummy companies, and foreign bank accounts (31:73).

Lurking behind the bribery and agents' fees controversy was aggressive salesmanship and the theme of bribery as a fact of life in parts of the world (58:70). As stated earlier, the international arms trade is one of the world's largest and fastest growing businesses (52:29). Each company's and country's salesmen must face a fiercely competitive atmosphere and bribes were one way of easing competition and gaining advantage. However, in the Mideast, Asia, Latin America, and parts of the Mediterranean, the payoff system or bribery is the way business is accomplished (119:57).

In the Mideast, the Bakleesh, or tip "for service rendered" transcends the American concept and involves all phases of business. As a result, commissions on large contracts go to local middlemen and government officials. Asian countries like Taiwan, South Korea, Thailand, the Philippines, and Indoneaia also have cultural systems of

business and services that require such payments to accomplish transactions. The result is that many American businessmen feel they must conduct themselves similarly in order to compete successfully. Other businessmen disagree and refuse to involve themselves with payoffs abroad, though they may fail to acquire some contracts (119:57). But the U.S. Government has been of the opinion that bribery is indefensible from an American viewpoint. Under Secretary of State George Ball stated,

What all these excuses [bribery as a way of life] reflect is a slothful business habit and a carelessness reinforced in many cases by gullibility. For the record is replete with bribes paid quite unnecessarily to individuals who in fact have no effective influence or who have pocketed the funds they promised to pass on to influential ministers [15:245].

Senator Proxmire has dismissed the argument that unilateral action by the United States to stop American companies from paying bribes would put them at a competitive disadvantage, stating, "most of the foreign bribes . . . involved American companies competing with American companies for the same business [15:245]." The question remains, if the United States has a clean house, can we force world compliance by exporting morality (41:70).

#### Unusual Contractual Arrangements

Another objectionable practice associated with the economics of the arms trade is the questionable agreements some corporations enter into with foreign nations. These

questionable contracts have resulted primarily from boycotting through blacklisting practices of various Arab nations. The Arab blacklist is of two varieties: one, is a listing of companies which Arabs are to avoid dealing with because of these companies' Israeli dealings or Jewish ownership. The second blacklist type concerns certain clauses which Arab nations tend to include in contractual arrangements. The blacklist began in 1948 and is maintained at the Arab Boycott Office in Damascus, Syria. Each Arab nation uses a variation of the "official" list, depending on its own political and economic viewpoint, and the document can consist of numerous, contradictory stipulations. For instance, the 1975 Saudi Arabian list contained the names of 1500 companies ranging from Ford Motor Company to Xerox Corporation. Most firms were on the list because of business dealings with Israel, however, Xerox was included for sponsoring a television documentary on the founding of Israel as a nation (68:65).

The blacklist is confusing since some companies may deal with both Israel and Arab countries yet not be on the list. An example of this is Chase Manhattan Bank. A Saudi Arabian official explained this contradiction by stating, "We know that Chase Manhattan Bank deals with Israel. But you see the difference is in tone, the bank is not hostile to us [68:65]."

The U.S. Government has shown increasing concern about the Arab blacklist. The Commerce Department, during September 1975, asked U.S. firms not to support the Arab boycott but took no official action, unless the prospective contract was written in terms making it discriminatory on the basis of race, color, religion, national origin, or sex: clauses which violated U.S. law. The Commerce Department was careful, however, to distinguish between "national origin" and "nationality." A national origin clause, such as "refrain from doing business with Jewish-owned firms," is illegal; but a similar clause, known as a nationality clause, prohibiting business with firms "owned by Israeli Nationals" is legal (14:16).

In December 1975, the Justice Department prepared to initiate the first legal action against a U.S. company for allegedly cooperating with the Arab boycott against Israel. Legal action could affect dozens of U.S. firms that do conform to boycott provisions, such as assuring that goods are not made for Israel or agreeing to avoid dealing with blacklisted firms. The accused firms may have entered a "no win" situation. If they are declared guilty of conforming to the boycott, they will be enjoined from fulfilling the contract's boycott provisions. If the courts determine the firm is innocent of the charges, the Arabs would conceivably cancel the contract for non-compliance (122:32).

In recent years, Congress has become increasingly intolerant of U.S. firms submitting to the Arab boycott and has indicated the need for legislation to prohibit it. No legislation has been enacted to date, but many believe it is forthcoming (4:66). The U.S. Government does appear to realize tough Arab boycott legislation and similar actions could undermine U.S. relations with Arab States and hamper U.S. trade with the Mideast (4:66; 51:90).

Another type of questionable arrangement a contractor may agree to, contains illegal discriminatory clauses. One example of an arms contractor having been involved in contracts with discriminatory clauses is the Vinnell Corporation. The Vinnell Corporation was awarded a \$77 million contract in February 1975 to train Saudi Arabian national guard to protect oil fields. The arrangement immediately caught the attention of the media because it was the first time a private American company had contracted to train foreign armed forces (95:51). The contract caused some concern in the House of Representatives because of several discriminatory clauses in the original contract. Under congressional pressure, four basic clauses were removed. One of these prohibited women at one particular worksite, while a second declared all employees must meet minimum haircut standards published by the United States Army. A third clause stated,



Contractor will employ no person for work on the project within the confines of Saudi Arabia, as distinguished from the U.S., who is a citizen of a state which is not recognized by the Saudi Arabian Government [95:24].

The fourth clause required all personnel to be from countries recognized by Saudi Arabia and to have no history of personal contact or interest in unrecognized countries (95:24).

#### Human Rights and Dictatorships

The power of strong armed forces and internal security forces can be beneficial to a nation, but it may provide the tools for suppression of human rights and assist in the maintenance of dictatorships. Since the United States has sought to support human rights and democracies for many years, there has been an ever-present concern that a recipient of security assistance and/or foreign military sales will use the arms to oppress its citizens to perpetuate a corrupt regime. This fear may be well founded. Several of the United States' closest allies have often been accused of oppressing their citizens.

The Republic of South Korea came to the attention of Congress in 1974 and, as result, security assistance was reduced to South Korea by Congress until "substantial progress in the observance of internationally recognized standards of human rights . . . " was made. The provision did not encourage South Korea to lessen repression, however.

In 1975, additional restrictions concerning criticism of the government were imposed by the South Korean regime (90:182).

Indonesia, another recipient of U.S. security assistance, has allegedly become very corrupt with the government powerful and relatives of government executives becoming richer at the expense of the other citizens because of paternalism. Some Westerners in Indonesia blame uncontrolled U.S. monies being pumped into the country following the overthrow of the Communists in 1965. A large amount of money with no restrictions led to people at every strata of the government demanding a payoff. Other people justify the corruption as the way of life in Indonesia for centuries (16:A9). Certain practices on the part of Indonesia with respect to political prisoners have been under greater scrutiny by Congress. Since the aborted coup of 1965, approximately 50,000 Communists and Communist sympathizers have been imprisoned, often without benefit of formal arrest with charges or trial. The International Red Cross has conducted investigations regarding these imprisonments with varying degree of cooperation from Indonesian officials (94:84-98).

Other examples of a friendly nation oppressing human rights are Iran where the SAVAK, the Iranian equivalent of a combined Central Intelligence Agency and Federal Bureau of Investigation, has been accused of sending assassination

and investigation teams to other nations in order to suppress dissident action by Iranian expatriates (10); the Philippines in which the army allegedly is used in interrogation of detained individuals with torture sometimes involved (94:81); and Israel, where some individuals wonder if Arab student demonstrations have been quelled by means appropriate in terms of the military security involved or with unneeded, excessive force (36:A17). A related problem has concerned the treatment of American citizens arrested while visiting foreign countries. The plight of 482 Americans held in Mexican jails for drug offenses has been the most publicized recent example with torture, beating and family extortion reportedly used (56:31). Similar practices have been reported in the Philippines (94:81).

The tone of Congress in recent years has been to encourage individual human rights practices in all countries. Congress has ordered studies of the human rights practices in countries receiving U.S. grant aid and foreign military sales, including: Argentina, Brazil, Chili, Spain, Zaire, India, Pakistan, South Korea, Indonesia, and the Philippines (33:3023). Even with this concern, a recent report to Congress on the human rights situation in recipient nations stated:

. . . using security assistance as a possible lever to improve the human rights situation in a particular country we are faced at the outset with at least two

fundamental questions: (1) Would the substantial reduction or termination of security assistance to that country damage our own national security?  
(2) Would the substantial reduction or termination of security assistance improve or worsen the human rights situation in that country or make it more difficult to make our laws known [94:109].

The recommendation of the report is, while security interests and human rights are both important, each country needs to be looked at individually on a case by case basis (94:109).

The Presidents of the United States have long been proponents of human rights with statements to support America's crusade for freedom spanning 60 years from Woodrow Wilson to Jimmy Carter. The theme expressed by these Presidents has been consistent: democracy and human rights cannot be set aside in the name of security (57:18-19).

#### Summary

Throughout the early 1970s, the international arms trade progressively expanded and continued to prosper. The U.S. remained the world's largest exporter of arms. The objectionable practices associated with this trade; such as bribery, excessive agent's fees, and suspension of human rights, appeared to expand proportionately with the sales trend. Several times during the late 1960s and early 1970s, the United States Congress passed legislation in an effort to curb the objectionable practices while recognizing

Security Assistance was still necessary for U.S. national security. This legislation was ineffective in its curbs. Chapter III will summarize the significant laws dealing with security assistance and foreign military sales prior to the International Security Assistance and Arms Export Control Act of 1976 to show the congressional efforts to exert control on Security Assistance programs.

### CHAPTER III

#### CONGRESSIONAL CONSTRAINTS AND PROHIBITIONS ON SECURITY ASSISTANCE PRIOR TO 1976

The purpose of this chapter is to review those congressional constraints and prohibitions imposed upon the United States Security Assistance programs prior to enactment of the International Security Assistance and Arms Export Control Act of 1976. The appropriate sections of the Foreign Assistance Act of 1961 and the Foreign Military Sales Act are presented as they were originally enacted. Important amending provisions are addressed subsequent to the parent legislation in order to show Congress' continuous involvement in attempting to control U.S. participation in the international arms market. Appendix A contains a chronology of world events which can be consulted to place these legislative efforts into an historical perspective.

##### The Foreign Assistance Act of 1961

The purpose of the Foreign Assistance Act (FAA) of 1961 was "to promote the foreign policy, security, and general welfare of the United States by assisting peoples of the world in their efforts toward economic development and internal and external security . . . [87:Preamble]."

To accomplish this purpose, several aid programs were established by the FAA of 1961. Major portions were: the Act for International Development, the International Peace and Security Act, and General Administrative and Miscellaneous Provisions. The Act for International Development provided U.S. economic assistance to less developed, friendly countries; reviewing its provisions is not germane to this thesis. However, the International Peace and Security Act addressed military assistance extensively and provided for foreign military sales. Therefore, a presentation of its provisions is warranted. In addition, the General Administrative and Miscellaneous Provisions contained important security assistance stipulations which are addressed.

International Peace and Security Act  
of 1961 (Part II, FAA of 1961)

Section 502 of the FAA of 1961 provided national policy and purpose by stating:

It is the purpose of this part to authorize measures in the common defense against internal and external aggression, including the furnishing of military assistance, upon request, to friendly countries and international organizations. In furnishing such military assistance, it remains the policy of the United States to continue to exert maximum efforts to achieve universal control of weapons of mass destruction and universal regulation and reduction of armaments . . . [87:Sec.502].

The congressional intent, contained in the legislation, was to promote world peace and the security of the United

States by fostering a climate in which friendly nations could maintain internal and external security (87:Sec.502).

With this climate as a goal, the Congress authorized the President to furnish military assistance to any friendly country or international organization, provided the President judged the assistance would strengthen the security of the U.S. and promote world peace. Further, the President was authorized to acquire defense articles or services from any source and subsequently loan, give, or sell these articles or services to selected nations. The President was allowed to make financial contributions to multilateral programs for acquisition or construction of facilities in foreign countries to promote collective defense.<sup>1</sup> The Act also authorized the President to provide financial assistance for expenses incident to U.S. participation in regional or collective defense organizations, and to assign members of the Armed Forces and other Department of Defense personnel for noncombatant duties, such as training or advising (87:Sec.503). The FAA of 1961 restricted military assistance solely for the recipient's internal security, legitimate self-defense, and participation in regional or collective arrangements or measures consistent with the Charter of the United Nations (87:Sec.505).

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<sup>1</sup>An example of such financial contributions were U.S. payments for construction of NATO headquarters in Brussels.



Section 506 of the Act established eligibility conditions on countries which could receive aid. The country had to agree to prevent use of the defense article by anyone other than an officer, employee, or agent of that country. The nation could not transfer the defense article by gift or sale, nor could it permit the use of articles for purposes other than those for which they were furnished. The recipient nation had to pledge to maintain the security of defense articles in substantially the same manner as the U.S. would and to permit continuous observation by U.S. representatives. The observation requirement was inserted so the U.S. would be assured of proper use. Finally, the recipient had to agree to return the defense articles to the U.S. once they were no longer needed or to dispose of them in a manner the President considered to be in the best interests of the United States.

The maximum value of defense articles granted to any one country was limited to \$3 million annually. The President could waive this limit if he determined the recipient country conformed to the purposes and principles of the Charter of the United Nations, and the defense articles would be used for maintenance of its own defensive strength and the defensive strength of the free world. Also, the President had to determine whether the recipient country was taking all reasonable and necessary measures to develop its defensive capacities, and that the increased

ability of the country to defend itself was important to the security of the U.S. (87:Sec.506).

Sales were addressed in Section 507 of the Act. The President was authorized to furnish defense articles from DOD stocks and defense services to any friendly country or international organization if it agreed to reimburse the U.S. Government for the value of the stocks or services. Payment had to be made in advance and in U.S. dollars, but if the President determined it was in the best interests of the United States, a reasonable loan period, not to exceed three years, could be established. "Value" was defined as the greater of (1) the gross cost incurred by the U.S. in repairing, rehabilitating, or modifying the articles or (2) the market value, if ascertainable (87:Sec.644).

The President could also enter into contracts for the procurement of defense articles or services for sale to any friendly country or international organization if the U.S. had been provided a dependable undertaking. A dependable undertaking meant the country or international organization agreed (1) to pay the full amount of the contract so the U.S. Government was insured against any loss, and (2) to make funds available to meet payments and to pay any damages and costs that might accrue from contract cancellation (87:Sec.507).

The Congress restricted Latin American military aid to \$57.5 million in any fiscal year. Congress also voided internal security requirements as a basis for military assistance programs for American Republics unless the President determined otherwise and reported his decision to Congress (87:Sec.511).

General Administrative and Miscellaneous Provisions (Part III, FAA of 1961)

Part III of the Act of 1961 provided guidance concerning program administration by addressing general, administrative, and miscellaneous provisions. One general provision restricted procurements negotiated under the Act. These procurements had to be made in the U.S. unless the President determined that procurement outside the U.S. borders would not adversely affect the U.S. economy. Of concern to Congress were situations such as labor surpluses in the U.S. and the net position of the United States in its balance of payments with the rest of the world (87: Sec.604).

Another general provision provided:

Assistance under any provision of this Act may, unless sooner terminated by the President, be terminated by concurrent resolution. Funds made available under this Act shall remain available for a period not to exceed twelve months from the date of termination of assistance under this Act for the necessary expenses of winding up programs related thereto [87:Sec.617].

The last general provision prohibited assistance  
to:

- (1) The present government of Cuba;<sup>2</sup>
- (2) Any country dominated or controlled by the international communist movement; and
- (3) Any country which was indebted to a U.S. citizen who had exhausted legal remedies and the country had not denied or contested the debt (87:Sec.620).

One of the administrative provisions described the coordination desired of U.S. Government representatives in a foreign nation. The chief of the diplomatic mission was directed to make sure that recommendations of representatives pertaining to military assistance were coordinated with respect to economic and political considerations. The chief of the diplomatic mission was given the latitude to attach his comments to recommendations if he so desired. The Secretary of State, under the direction of the President, was held responsible by Congress for the continuous supervision and general direction of assistance programs under the Act. This responsibility included determining whether there would be military assistance to a nation, the value of such assistance, and how to best serve U.S. foreign policy with military assistance (87:Sec.622).

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<sup>2</sup>To fully implement this policy, the President was authorized to establish and maintain a total embargo upon all trade between the United States and Cuba (87:Sec.620).

Another administrative provision addressed the responsibilities of the Secretary of Defense. Among these responsibilities were:

(1) The determination of military end-item requirements;

(2) The procurement of military equipment to permit integration with service programs;

(3) The supervision of end-item use by recipient countries;

(4) The supervision of the training of foreign military personnel;

(5) The movement and delivery of military end-items;

(6) The performance of any other functions to assist in the furnishing of military assistance within DOD; and

(7) The establishment of priorities in procurement, delivery, and allocation of military equipment (27:Sec.623).

The President was directed to appoint an Inspector General for Foreign Assistance in the Department of State who would report directly to the Secretary of State. This Inspector General would be responsible for continuous observation and review of programs to evaluate their effectiveness in attaining U.S. foreign policy objectives. In addition, he was authorized to suspend portions of a country's program whenever his inspections detected major

discrepancies. However, ne had to provide advance written notice to the Secretary of State. These suspensions would remain in effect unless removed by the Inspector General or the Secretary of State (87:Sec.624).

Section 634 of the Act required the President to submit a report on operations under the Act to Congress at the close of each fiscal year. The same provision required the President to publically disclose all operations performed under authority of the Act which were not deemed crucial to the security of the U.S. Also, in January of each year the President was required to report all actions taken during the preceding 12 months which resulted in substantially different assistance than Congress had considered in the appropriation of funds. The report was to include all obligations or reservations which exceeded the proposed program by 50 percent, and the President's justification for such changes (87:Sec.634).

The last administrative provision of importance specified that assistance under the Act could be furnished on a grant basis or on repayment terms including cash and loans, except sales from stock had to be in U.S. dollars. The goal was to determine the best financial method for furnishing assistance in order to achieve the purposes of the Act, with emphasis on loans rather than grants. The section also authorized the President to enter into agreements and contracts with any individual, corporation, or

other body of persons in furtherance of the purposes and within the limitations of the Act (87:Sec.635).

The Foreign Assistance Act of 1961 completely revised basic legislation governing both military and economic assistance. The Act was designed to provide new vigor, purpose, and direction for the foreign aid program (66). However, in the intervening 15 years, until passage of the International Security Assistance and Arms Export Control Act of 1976, Congress initiated several changes to the provisions of the original Act. The next portion of this chapter reviews several of these changes.

#### Amendments to the Foreign Assistance Act of 1961<sup>3</sup>

The Congress passed numerous amendments to the Foreign Assistance Act of 1961 in the years 1962 through 1974. The programs projected for each year had to be authorized, and in the cases of grant aid and credit-funded. This was accomplished by amendment of the original Act. Thus, amending laws provided convenient tools for Congress to legislatively control and manage the Security Assistance programs.

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<sup>3</sup> Because of the numerous publications concerning the various amendments, a source containing amended and annotated legislation was used for this section of the chapter. The section of the amended legislation where the provisions can be found as well as the source page number is provided to aid the reader.

Those provisions inserted during the period 1962 through 1974 and remaining in force at the time legislative activity was begun on the International Security Assistance and Arms Export Control Act of 1976 are presented in this section. Stipulations which were inserted in one amendment and then removed by another amendment are not included.

The first amendment was the Foreign Assistance Act of 1962. It added a condition to the eligibility criteria which required the President to reduce and terminate (through orderly procedures) all grant aid to any country having sufficient wealth that it could maintain and equip its own military. The President had to determine whether this capability existed and that termination of grants would not unduly burden a particular country's economy (Sec.505) (97:75). Another eligibility requirement stipulated any country in substantial violation of agreements or legislative provisions would become ineligible for further assistance (Sec.505) (97:75-6).

The 1962 amendment also established several prohibitions against furnishing assistance in Section 620 of the parent legislation. No grant aid was permitted to any nation that gave assistance to Cuba, but the President could waive this restriction upon determining continued assistance was in the national interest of the U.S. Also, no assistance was to be granted to any country which



refused to pay a legally recognized indebtedness unless the President determined continued assistance was in the national interest. The parent Act did not provide for waiver authority. In addition, assistance could not be furnished to any Communist country unless the President found, and promptly reported to Congress, that:

- (1) Such assistance was vital to U.S. security;
- (2) The recipient country was not controlled by the international Communist conspiracy; and
- (3) Such assistance would promote the independence of the country from international communism.

Another 1962 prohibition against furnishing assistance denied the use of U.S. foreign aid to promote the foreign aid projects and activities of communist-bloc nations. Also, monetary assistance made available to any country was not to be used to compensate owners for expropriated or nationalized property (Sec.620) (97:98-102).

In 1963, Cuba was the target for an additional assistance prohibition. No assistance was allowed to any country that permitted aircraft or ships under its registry to transport equipment, material, or commodities to Cuba. Assistance would also be denied to any country which the President determined was engaged in, or preparing to engage in, aggressive military efforts. An exception was made to the 1962 provision eliminating grant assistance to economically developed nations capable of sustaining their

on defense burden and economic growth. In 1963, the U.S. was allowed to continue to fulfill its prior commitments and to pay for certain orientation and training expenses. This exception for orientation and training expenses was an important addition (Sec.620) (97:99-104).

The U.S. was prohibited from providing assistance to any country which had nationalized, expropriated, or seized ownership or control of property which had been owned by U.S. citizens. Corporate property that was confiscated was considered to be American if the corporation was 50 percent American owned. This restriction was inserted in the legislation in 1964 along with a cut-off of assistance to any country which repudiated contracts or discriminated against U.S. citizens or U.S. corporations with unfair taxation or operating conditions (Sec.620) (97:100).

American fishing boat seizures were addressed in the amendment of 1965. The Congress stipulated that when

. . . determining whether or not to furnish assistance under this Act, consideration shall be given to excluding from such assistance any country which hereafter seizes, or imposes any penalty or sanction against, any United States fishing vessel on account of its fishing activities in international waters [Sec.620] [97:104-5].

In 1966, the prohibition against assistance to any country permitting its aircraft or ships to transport cargo to North Vietnam was added to the earlier restriction against countries shipping to Cuba (Sec.620) (97:104).

Assistance would be prohibited, also, to any nation which defaulted on a loan repayment for a period in excess of six calendar months. However the President was allowed to waive this restriction if he determined continued assistance was in the national interest and so notified Congress of his determination (Sec.102) (97:106).

By 1967, Congress felt it was time to change the policy somewhat and asserted:

The Congress declares that the freedom, security, and prosperity of the United States are best sustained in a community of free, secure, and prospering nations. In particular, the Congress recognizes the threat to world peace posed by aggression and subversion wherever they occur, and that ignorance, want, and despair breed the extremism and violence which lead to aggression and subversion. The Congress declares therefore that it is not only expressive of our sense of freedom, justice, and compassion but also important to our national security that the United States, through private as well as public efforts, assist the people of less developed countries in their efforts to acquire the knowledge and resources essential for development and to build the economic, political, and social institutions which will meet their aspirations for a better life, with freedom, and in peace [Sec.102] [97:2].

Congress further declared that to achieve the objectives of the Act, programs should be carried out in accordance with the following principles:

- (1) Development was primarily the responsibility of the people of the less developed countries themselves;
- (2) The tasks of successful development might require active involvement and cooperation of many countries on a multilateral basis;

(3) Assistance should be utilized to encourage regional cooperation by less developed countries in the solution of common problems;

(4) The first objectives of assistance should be to support the efforts of less developed nations to meet the fundamental needs of their peoples for sufficient food, good health, and other needs for improving life (Sec.102) (97:2-3).

It was the sense of Congress that the President should suspend assistance to any nation which had severed diplomatic relations with the U.S. (Sec.102) (97:3). Military assistance priority should be given to those nations in danger of becoming victims of active communist or communist supported aggression or internal subversion.

A new chapter title was inserted into Part Two of the parent Act in 1967. Chapter 3 became entitled Foreign Military Sales. Sections within the chapter concerned administration of the sales program, sales from U.S. military stocks, sales procurements, and reimbursements. Most of these provisions were transferred to the Foreign Military Sales Act in the following year. However, reimbursement stipulations remained in the chapter through 1974. Along with the new chapter, Congress abolished the revolving account by requiring all funds in that account to be transferred to the Treasury by June 30, 1966 (Sec. 524) (97:82).

The amending Act of 1967 added to the prohibitions against furnishing assistance. Congress informed the President that he should terminate assistance to any country which permitted, or failed to take adequate measures to prevent, the damage or destruction of U.S. property by mob action, and failed to take appropriate measures to prevent a recurrence or to provide adequate compensation for any damage or destruction caused by these mobs (Sec.620) (97:103). The President also urged to take into account the percent of a recipient nation's budget which was devoted to military purposes, the degree to which foreign exchange resources were used for military purposes by the recipient country, and the amount the recipient spent on sophisticated weapons before providing development loans or agricultural sales. This provision was designed to restrain arms races and the proliferation of sophisticated weapons and to insure that resources intended for economic development were not diverted to military purposes (Sec.620) (97:105).

The sense of Congress, in 1968, was that the President should, as soon as practicable, negotiate an agreement with Israel for the sale of supersonic jets for the purpose of preventing further Arab aggression by offsetting sophisticated weapons the Arab states had received from communist countries and to replace losses suffered by Israel in the 1967 conflict (Sec.651) (97:140-1). Congress

placed a great deal of attention on segregating military sales legislation from the laws concerning grant assistance, and passed the Foreign Military Sales Act of 1968. This Act is discussed later in this chapter.

The amendment in 1969 placed restrictions on training of foreign military students in the United States. It required the number of foreign military students trained in the U.S. to be less than or equal to the number of foreign civilians brought to the U.S. in the preceding year under the Mutual Educational and Cultural Exchange Act of 1961 (Sec.510) (97:79). It strengthened the provision from the 1967 amendment that tried to restrain the arms race. In accordance with the new amendment, the President had to report to Congress his findings as to the amount of a recipient nation's budget that was devoted to military expenses, the foreign exchange resources used for the military, and the amount spent on sophisticated weapons (Sec.620) (97:105).

International narcotics controls affected military assistance and foreign military sales in 1971. Congress adopted a provision which encouraged the President to suspend military assistance and sales to any country he determined had not taken adequate steps to control trafficking of narcotic drugs. The suspension of assistance and sales would remain in force until the President was

assured the recipient nation had taken adequate measures (Sec.481) (97:61).

All decisions to furnish military assistance had to be coordinated with the Director of the United States Arms Control and Disarmament Agency. This coordination would consider the Director's opinion as to whether the assistance would

- (1) Contribute to an arms race;

- (2) Increase the possibility of outbreak or escalation of a conflict; or

- (3) Prejudice the development of bilateral or multilateral arms control arrangements (Sec.511) (97:79).

Also, the reporting requirements were changed in 1971. The January report of significant differences in the program implementation was abolished, but the end-of-the-fiscal-year report remained. Added were requirements for the President to compare current programs and activities with those presented to Congress the previous year, and reasons for substantial changes (Sec.634) (97:125).

In 1973, Congress stipulated that excess defense articles would be provided whenever possible rather than resorting to new procurement to meet these requirements (Sec.502) (97:69). Also the President was constrained in granting redistribution authorizations. These authorizations would not be granted unless the U.S. would have provided the same items under grants or sales as determined

by Administration review processes (Sec.505) (97:76). Whenever assistance was terminated, funds would remain available for only eight months (in lieu of 12 months) following congressional concurrent resolution to terminate assistance (Sec.617) (97:98).

Reporting was again tightened. The President was now required to submit to Congress as of June 30 and December 31 of each year, a report on all loans under the Act and the status of each guaranteed sale under the FMSA of 1968 (Sec.634) (97:126). The President was required to disclose the amount of aid the U.S. provided to foreign countries and to international organizations. This report was to include the aggregate dollar value of all weapons systems exported so Congress and the American people would be better informed (Sec.657) (97:143-4).

The final amendment which significantly affected security assistance was enacted during 1974. It incorporated a human rights section. Congress declared:

It is the sense of Congress that, except in extraordinary circumstances, the President shall substantially reduce or terminate security assistance to any government which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman or degrading treatment or punishment; prolonged detention without charges; or other flagrant denials of the right to life, liberty, and the security of the person [Sec.502] [97:69].

Another provision adopted in 1974 restricted training to no more than 31 countries. It stipulated that funds



appropriated in the Act would not be used to furnish sophisticated weapons systems to underdeveloped nations. However, the President could transfer this type of weapon if he determined such transfers were important to the national security of the U.S. Any such determination had to be reported to Congress within 30 days (Sec.504) (97:73).

As of July 1, 1976, all funds used to support MAAGs had to come from foreign assistance authorizations rather than from separate and distinct military authorizations (Sec.515) (97:81). Congress modified the restraint on assistance to a country indebted to an American citizen. The Congress now permitted the President to continue assistance if he determined continuance was in the U.S. national interest (Sec.620) (97:99). But, a new restriction was added which terminated funds previously provided for training, advice, or financial support to law enforcement agencies in any foreign nation, or to support any program of internal intelligence or surveillance (Sec.660) (97:145-6). The restriction on furnishing assistance to countries which allowed their registered aircraft and merchant vessels to transport items to Cuba or North Vietnam was modified, also. The 1974 amendment allowed the President to waive this restriction if he determined continued aid was necessary in the U.S. national interest and reported his finding to the Congress (Sec.664) (97:147).

Finally, the Congress expressed the sense that

. . . the policies and purposes of the military assistance program conducted under chapter 2 of part II of the Foreign Assistance Act of 1961 should be reexamined in light of changes in world conditions and the economic position of the United States in relation to countries receiving such assistance; and that the program, except for military education and training activities, should be reduced and terminated as rapidly as feasible consistent with the security and foreign policy requirements of the United States.

. . . In order to give effect to the sense of Congress . . . the President is directed to submit to the first session of the 94th Congress a detailed plan for the reduction and eventual elimination of the present military assistance program [97:154-5].

The MAAGs were considered a portion of the program to be eliminated.

The amendments to the Foreign Assistance Act of 1961 provided Congress with a convenient instrument for expressing dissatisfaction with the administration and policies of the Security Assistance programs. Through the years, these amendments have shown the ever-increasing concern of Congress with the direction of United States involvement in the international arms trade. However, for a portion of the period, another Act concerned a part of Security Assistance. This Act was the Foreign Military Sales Act of 1968; the next section of this chapter is concerned with that legislation.

#### Foreign Military Sales Act of 1968

The second major security assistance Act which was in force just prior to the 1976 legislation was the Foreign

Military Sales Act (FMSA) of 1968. Congress implemented this legislation to place added controls and prohibitions on weapons sales. Specifically, Congress passed the Act of 1968 to consolidate and revise foreign assistance legislation relating to reimbursable military exports (88: Preamble). The FMSA of 1968 amended the Foreign Assistance Act of 1961 and transferred sales legislation to the separate FMSA. The FMSA consisted of four chapters with the first being entitled Foreign and National Security Policy Objectives and Restraints. Chapter 2 was the Foreign Military Sales Authorizations, with Chapters 3 and 4 being entitled Military Export Controls and General Administrative and Miscellaneous Provisions, respectively. Pertinent portions of these chapters follow:

Foreign and National Security Policy  
Objectives and Restraints (Chapter 1,  
FMSA of 1968)

The Congress reiterated the overriding U.S. policy to be followed while identifying the need for international defense cooperation and military export controls. This policy was:

. . . an ultimate goal of the United States continues to be a world which is free from the scourge of war and the dangers and burdens of armaments; in which the use of force has been subordinated to the rule of law; and in which international adjustments to a changing world are achieved peacefully. In furtherance of that goal, it remains the policy of the United States to encourage regional arms control and disarmament agreements and to discourage arms races [88:Sec.1].

Congress recognized the need for free and independent nations to organize mutually for collective defense in order to maintain and foster the environment of international peace and security. Because of growing complexities and soaring costs in defense equipment, it was uneconomical and impractical for any country, particularly a developing country, to meet all of its legitimate defense requirements from its own production base (88:Sec.1).

The Act authorized the sale of defense equipment by the U.S. Government to friendly nations having sufficient wealth to maintain and equip their own military forces so long as these sales furthered the security objectives of the United States. Thus,

It is the sense of the Congress that all such sales be approved only when they are consistent with the foreign policy interests of the United States, the purposes of the foreign assistance program of the United States as embodied in the Foreign Assistance Act of 1961, . . . the extent and character of the military requirement, and the economic and financial capability of the recipient country . . . [88:Sec.1].

Congress was particularly concerned that U.S. sales should not incite or encourage a regional arms race. Further it was the sense of Congress that sales and guarantees would not be approved where they would have the effect of arming military dictators or denying social progress in a country. The President could waive these limitations when he determined it was important to U.S. security and notified Congress (88:Sec.1).

Another stipulation of the FMSA of 1968 directed the Secretary of State to be responsible for the continuous supervision and general direction of FMS, including the determination of whether there was a sale to a country and the amount of the sale. The Secretary of State was charged with integrating sales with other U.S. activities and insuring FMS served the best interests of United States foreign policy. The provision directed the President to prescribe procedures for assuring coordination among representatives of the U.S. Government in foreign nations. To accomplish coordination, the Act directed the chief of the diplomatic mission in a foreign country to consider political and economic factors whenever U.S. representatives recommended arms sales. Sales recommendations could include the chief of mission's comments whenever he so desired (88:Sec.2).

Limitations on eligibility were provided. No defense article or service could be sold by the U.S. Government under this Act unless:

(1) The President determined the items sold to a country or international organization would strengthen U.S. security and promote world peace;

(2) The country or international organization had agreed not to transfer title of any defense article or furnish it to anyone other than an officer, employee, or

agent of that country or international organization unless the consent of the President had first been obtained;<sup>4</sup> and

(3) The country or international organization was otherwise eligible to purchase defense articles or services (88:Sec.3).

The Congress provided the purposes for which the U.S. sold military items:

Defense articles and defense services shall be sold by the United States Government under this Act to friendly countries solely for internal security, for legitimate self-defense, to permit the recipient country to participate in regional or collective arrangements or measures consistent with the Charter of the United Nations . . . [88:Sec.4].

None of the funds contained in the FMSA authorization could be used to sell sophisticated weapons to any underdeveloped country except Greece, Turkey, Iran, Israel, Republic of China, the Philippines, and Korea. However, the President could override this restraint if he determined that a sale to some other underdeveloped country was in the interest of U.S. national security and he reported this determination to Congress within 30 days (88:Sec.4).

Foreign Military Sales Authorizations  
(Chapter 2, FMSA of 1968)

The President was authorized to sell defense articles from the stocks of the Department of Defense to

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<sup>4</sup>The President was required to report to Congress each consent to transfer he issued.

any friendly country or international organization if it agreed to pay "not less than the value thereof" in U.S. dollars (88:Sec.21). The President was also authorized to procure defense articles and services if the nation or international organization provided the U.S. with a dependable undertaking. No sales of unclassified defense articles would be made to a developed nation unless such articles were not generally available to that nation from commercial sources in the U.S. The President could waive this restriction in the U.S. national interest (88:Sec.22).

The Act allowed credit sales by authorizing the President to finance procurements of defense articles and services provided the U.S. was paid within 10 years after delivery (88:Sec.23). The President was also authorized to guarantee any individual or corporation doing business in the U.S. (excluding U.S. Government agencies) against political and credit risks of nonpayment arising out of their financing a credit sale, thus establishing Government loan guaranties. Fees were to be charged for such guaranties (88:Sec.24).

Military Export Controls  
(Chapter 3, FMSA of 1968)

Four control provisions were important. The Export-Import Bank was prohibited from financing any sale of defense articles or services to economically less-developed countries (88:Sec.32). To assure underdeveloped

nations were not hampering economic development by buying too many arms, the President was authorized to terminate sales to less-developed nations whenever he determined such a nation was diverting U.S. development assistance funds or its own resources for unnecessary military spending. The President could halt such sales until he was assured that such diversions were no longer taking place (88:Sec.35).

The Secretary of State was required to submit to Congress semiannual reports concerning all exports during the preceding six months. The Congress desired to receive necessary information for evaluating the distribution of U.S. defense articles abroad (88:Sec.36).

Cash payments were required to be used to repay suppliers (including military departments) and could not be applied to other purposes, such as financing additional credits or guarantees. Repayment for credits, including fees and interest, were to be transferred to the Treasury so these payments could not be used to subsidize added transactions (88:Sec.37).

General Administrative and  
Miscellaneous Provisions  
(Chapter 4, FMSA of 1968)

Three important stipulations were contained in the chapter concerning general, administrative, and miscellaneous provisions. They were:



(1) Special emphasis would be placed on procurement in the United States, but consideration would also be given to coproduction and licensed production outside the United States of defense articles of United States origin when such production best served the foreign policy, national security, and economy of the United States;

(2) Funds made available under the Act could be used for procurement outside the United States only if the President determined that such procurement would not result in adverse effects upon the economy of the United States, or the industrial mobilization base; and

(3) The Secretary of Defense would be responsible for all planning, programming, and implementing details for defense items and services sold to friendly foreign countries and international organizations (88:Sec.42).

In the FMSA, Congress applied essentially the same provisions to sales as were previously established for grant assistance. The separate legislation was considered appropriate because of the volume of sales and the need for better management. As written, however, few controls were applied which had not been in existence in the earlier FAA of 1961.

#### Amendments to the Foreign Military Sales Act<sup>5</sup>

Prior to 1976, the FMSA was amended four times. Three of these amendments were contained in the Foreign

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<sup>5</sup>Because of the numerous publications concerning the various amendments, a source containing amended and

Assistance Acts of 1971, 1973, and 1974. Five amending provisions were of importance.

The FAA of 1971 established a requirement for the Secretary of State to advise the Congress of proposed credit or guaranteed sales involving coproduction or licensed production outside the U.S. The Secretary's report had to describe the articles to be produced, the estimated value of the production, and the probable impact on the U.S. economy (Sec.42) (97:268).

In 1973, an additional condition to eligibility was inserted. Henceforth, the country or international organization had to agree to maintain the security of defense articles in a manner comparable to those the U.S. employed (Sec.2) (97:248).

More significant changes were applied by the FAA of 1974. This Act permitted the Federal Financing Bank to accept Presidential loan guarantees and to finance military sales. In the original Act, all U.S. Government agencies were excluded from such participation (Sec.24) (97:257). Reporting requirements were revised to introduce the President into the communications channel. Rather than require the Secretary of State to make reports on sales, the amendment required the President to submit quarterly reports to Congress containing:

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annotated legislation was used for this section of the chapter. The section of the amended legislation where the provisions can be found as well as the source page number is provided to aid the reader.

(1) A listing of all letters of offer for any defense articles or services;

(2) A cumulative listing of all letters of offer that had been accepted during the fiscal year;

(3) The cumulative dollar amounts of sales by foreign country and international organization during the fiscal year; and

(4) Projections of cumulative dollar amounts by foreign country and international organization for the quarter following report submission (Sec.36) (97:260-1).

Possibly, the most important section of the Foreign Assistance Act of 1974 was the Nelson Amendment to the FMSA of 1968. The President was required to notify the Speaker of the House and the Chairman of the Senate Foreign Relations Committee of any proposed arms sale estimated to exceed \$25 million. Congress then had 20 days in which to adopt a concurrent resolution blocking the sale. The amendment amounted to a congressional veto over arms sales decisions and was a positive step by Congress to gain control of arms sales policies (Sec.36) (97:260).

The list of amendments to the FMSA of 1968 was not lengthy. The Congress had not seen a need to change the Act to any great extent. Chapter IV addresses the International Security Assistance and Arms Export Control Act of 1976 which did extensively amend both the FAA of 1961 and the FMSA of 1968.

## CHAPTER IV

### PROVISIONS OF THE INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORT CONTROL ACT OF 1976

Despite earlier legislative efforts, United States Government and commercial involvement in the international arms trade continued in a manner which Congress viewed as not being in concert with national policy. The continuing trends and objectionable practices highlighted in Chapter II appeared to substantiate such a view. Additionally, the evolving role which the United States played in the world community of nations was drastically changed from that which was in existence when previous legislation was enacted. Revisions were necessary to reflect these changes. Also, a basic realignment of relative power between the executive and legislative branches dictated a reversal of the previous arms trading policy which had relegated complete control to departments within the executive branch (100:8-15). Contributing to this need for realignment was an alleged irresponsibility on the parts of the Presidency and the Department of Defense (75:127-8). The huge C-5A cargo aircraft acquisition cost overruns and the perennial promises of forthcoming

successes in Vietnam were vivid reminders for questioning Department of Defense statements (29).

#### Legislative History

On Tuesday, June 17, 1975, the United States Senate's Subcommittee on Foreign Assistance of the Committee on Foreign Relations met with Senator Hubert H. Humphrey (D., MN) presiding. The reason for this meeting was to begin two days of hearings on arms sales issues in connection with the subcommittee's work on foreign assistance legislation. Also pending before the committee were:

(1) A bill (S. 795) to suspend all sales of defense articles and services for six months to Iran, Saudi Arabia, Iraq, Kuwait, Qatar, Bahrain, the United Arab Emirates, and the Sultanate of Oman;

(2) A bill (S. 854) to amend the Foreign Military Sales Act so as to require congressional approval of any sale, credit sale, or guaranty involving a major weapon system or defense service and to require congressional approval of the total amount of sales, credit sales, and guaranties made to any country or international organization;

(3) A concurrent resolution (S. Con. Res. 21) expressing the sense of Congress that an embargo should be reinstated concerning arms shipments to Pakistan and India; and

(4) The Administration's Foreign Aid Bill (S. 1816) to provide open-ended military credit sales authorization for fiscal years 1976 and 1977 (with specific program amounts to be submitted once the administration's reassessment of Middle East policy was completed) and to terminate the \$40 million annual ceiling on military assistance and credits to Africa (101:1-16).

Senator Humphrey opened the session by expressing the basic purpose of the hearings as being to study whether arms sales programs, and the statutory framework under which they were conducted, were truly consistent with the national objective of seeking "a world free from the scourge of war and the dangers and burdens of armaments . . . [101:12]." He further stated that the current program seemed to have developed by its own momentum and continued to move under its own impetus rather than being a product of careful and deliberate legislative and executive joint policy determination.

There are serious questions about the policy objectives, administration, and future course of the arms sales program. Do Government sales tie us too closely to the interests of the purchasing country? Would a return to commercial channels lessen--rather than strengthen--foreign policy controls? How important are balance of payment and other economic factors in the decisionmaking process? Where is the sale of American military technology leading us? What about the argument that "if we don't sell, someone else will," which, of course, is the argument that is heard all the time. What can we do to encourage international controls on conventional weapons? These are some of the questions the subcommittee ought to, and I hope, will explore . . . [101:13].

This hearing was the kickoff for a long, comprehensive analysis involving several other hearings by both Senate and House of Representatives committees, congressional staff investigations, and congressional fact-finding visits to a number of countries. The House of Representatives' Committee on International Relations began its actions on November 13, 1975. Before this committee were two proposals:

(1) A bill (H.R. 10594) which contained the President's revised foreign aid message of October 30, 1975, including specific funding proposals for FY 1976 Security Assistance programs; and

(2) A draft bill (later designated as H.R. 11963) which combined the President's specific funding proposals with a number of amendments which had originated in the Subcommittee on Oversight as a result of studies which the staff, the General Accounting Office, and the Congressional Research Service had conducted for that subcommittee (93:1-2).

On that same date, November 13, Senator Humphrey introduced to his subcommittee a substitute bill (S. 2662) which incorporated certain provisions from earlier bills and some of the President's revised proposals (101:248-78). Senate hearings on this specific bill were conducted during November and December. The Senate passed S. 2662 on February 18, 1976, by a 60-30 vote (100:5-6). During

this period, the House of Representatives held 21 "markup" meetings concerning its draft bill. These meetings culminated with the draft bill being favorably reported to the entire House as H.R. 11963. It passed the House, in an amended form, on March 3 by a vote of 240 to 169. Subsequently this passage was vacated and S. 2662 was passed instead after being amended to contain the language of H.R. 11963 (93:2).

The Senate disagreed to the House amendments so a conference committee was convened to resolve the differences. After several meetings, a conference report (H.R. Report 94-1013) was filed on April 6. Both houses of Congress agreed to the conference report on April 28, thus passing S. 2662 with its Military Assistance program authorizations for FY 1976.<sup>1</sup> The votes were 215 to 185 in the House and 51 to 35 in the Senate (93:2).

The major purpose of S. 2662 was to demonstrate the increasing dissatisfaction Congress had shown in foreign military assistance and sales programs. It endeavored to centralize and establish more effective controls within the executive branch. It attempted to provide Congress with a stronger voice concerning government and commercial arms exports and to put into practice the national policy of seeking a world free from the burdens

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<sup>1</sup>Only 62 days remained in FY 1976 when this Act was forwarded to the President (93:2).



of armaments. S. 2662 attempted to establish careful and deliberate policy guidance on arms sales matters and to provide improved scrutiny to the foreign policy aspects of arms sales proposals. Four basic objectives were designed into this legislation:

- (1) Shift the focus to arms export and sales controls;
- (2) Provide additional information to Congress and the public;
- (3) Expand and strengthen congressional control over arms transfers; and
- (4) Reduce significantly the military grant assistance programs and their costs (100:8-10).

Some of the major provisions contained in this bill addressed:

- (1) Temporarily lifting the embargo on trade with North Vietnam so an accounting of American personnel missing in action would be made;
- (2) Establishing an annual ceiling on arms sales in the amount of \$9 billion;
- (3) Requiring termination of aid and sales to countries which discriminate against U.S. citizens for reasons of race, religion, national origin, or sex;
- (4) Terminating grant military assistance programs and MAAGs by October 1, 1977 unless specifically

authorized by Congress and reducing the number of MAAGs for FY 1976 to 34 (93:3).

(5) Providing congressional veto to Executive actions by concurrent resolution (i.e., extending the Nelson Amendment) in seven cases. These cases would permit Congress to:

(a) Stop proposed government-to-government sales of major defense equipment valued at \$7 million or more and of any sale of other defense equipment with a total contract price of \$25 million or more (100:13);

(b) Veto the issuance of export licenses for commercial sales of major defense equipment valued between \$7 and \$25 million;

(c) Terminate assistance to a government which the Congress determined to be a gross violator of human rights (93:3);

(d) Disallow third-country transfers of U.S.-origin arms whenever the Congress determined such transfer was not in the interests of the United States;

(e) Terminate assistance to governments which harbor terrorists (100:13).

(f) Halt assistance to countries which have substantially violated conditions of use of U.S.-origin arms; and

(g) Halt sales to countries which violate use provisions (93:3).

President Ford vetoed S. 2662 on May 7. The rationale for the veto included presidential objections to:

(1) Congressional interpretation of the constitutional separation of powers and of the executive branch's constitutional authority to implement foreign policy as well as the question of the seven cases in which Congress could override a presidential decision by concurrent resolution;

(2) Establishment of a ceiling on arms sales which would substitute an arbitrary limitation for the case-by-case analysis and decisions based on foreign policy priorities and legitimate security needs of recipient countries;

(3) Inclusion of discrimination and human rights provisions which would be awkward and ineffective in achieving the desired result;

(4) Suspension of the trade controls imposed on Vietnam; and

(5) Termination of the grant military assistance and MAAGs (113:III-V).

In the meantime, Congress had begun work on the Administration's FY 1977 request. Following the veto, the House of Representatives met to "mark up" a bill for fiscal year 1976, the transition quarter, and fiscal year 1977; there was no effort to override the veto. As a result

H.R. 13680 was developed (93:2-3). In a similar fashion the Senate developed S. 3439 (100:1).

According to a House of Representatives' Committee on International Relations Report (H.R. Report 94-1144), H.R. 13680 was a followup bill to S. 2662 and did not retreat from basic reform initiatives contained in the earlier bill to phase out grant military assistance and to increase the exercise of congressional oversight powers with respect to the rapidly growing arms sales program. H.R. 13680 contained the provisions that were considered to be the most important and worthwhile reforms while carefully considering the objections raised in the President's veto message. Some provisions were deleted and others changed in response to the objections of the President. On the major issues raised in the veto:

- (1) H.R. 13680 retained the \$9 billion ceiling on the annual volume of arms sales;

- (2) H.R. 13680 deleted the provisions relating to a lifting of the trade embargo on Vietnam;

- (3) H.R. 13680 reaffirmed the U.S. policy of opposing discrimination against U.S. citizens for reasons of race, religion, national origin, or sex by countries receiving U.S. arms aid. However, the requirement to terminate aid and sales to such countries was deleted; and

(4) H.R. 13680 retained the provisions terminating grant military assistance programs and all MAAGs, except those specifically approved, by the end of FY 1977.

Of the seven provisions providing for a congressional veto by concurrent resolution, H.R. 13680 retained two and deleted five. It kept the congressional authority to disapprove the sale of major defense equipment sold through government-to-government channels and to terminate assistance to countries engaging in a consistent pattern of gross violation of human rights. The five concurrent resolution provisions that were deleted concerned disapproval of third-country transfers of U.S.-origin arms; termination of assistance to countries affording sanctuary to international terrorists; prevention of the issuance of licenses in connection with commercial sales of major defense equipment valued between \$7 million and \$25 million; and two provisions calling for termination of assistance and sales to countries believed to have committed substantial violations of the conditions for the use of U.S.-origin arms (93:3).

Neither legislative house could accept the bill which had been drafted by the other because of conflicts and omissions between the two bills. A conference committee was formed with representatives from the Senate (John Sparkman, Frank Church, Gale McGee, George McGovern, Hubert Humphrey, Clifford P. Case, J. K. Javits, and

Hugh Scott) and the House of Representatives (Thomas E. Morgan, Clement J. Zablocki, Dante B. Fascell, Charles C. Diggs, Jr., Lee H. Hamilton, William Broomfield, and Edward J. Derwinski). This conference committee decided to set aside the Senate bill and amend the House version. It removed the \$9 billion ceiling on U.S. arms sales and substituted an agreement that sales should not exceed the current level. It also removed the concurrent resolution provision to terminate assistance for human rights violations by inserting a joint resolution proviso instead (96:50-60). The conference version of H.R. 13680 passed both houses of Congress and was enacted into law on June 30, 1976 as Public Law 94-329, the International Security Assistance and Arms Export Control Act of 1976 (89).

The remainder of this chapter presents the significant provisions of the International Security Assistance and Arms Export Control Act of 1976 and provides reasons for their adoption.

#### Military Assistance Program Provisions

##### MAP Authorizations

An authorization in the amount of \$196.7 million was established to provide assistance to not more than twenty countries during FY 1976. Of this amount, not more than \$6 million could be used for international

organizations and nondesignated countries. Eight countries<sup>2</sup> were designated for assistance with a ceiling placed upon the amount which could be allocated to each. The President was authorized to increase the ceiling to any designated country by not more than ten percent. For administrative and other related expenses, an added \$32 million was authorized.

The amounts authorized for FY 1977 were less than for 1976, with the exception of administrative funds, and the maximum number of participating countries was reduced to twelve even though the number of designated countries remained at eight. The ceilings for most of the designated countries remained essentially the same as for the previous year with two exceptions. The Republic of Korea ceiling was reduced to \$8.3 million from \$55 million. The ceiling for Turkey was increased to \$50 million from \$31 million. Presidential increase of up to ten percent was retained. MAP authorization was set at \$177.3 million and administrative funds were placed at \$70 million. Only \$3.7 million of the MAP authorization could be used for nondesignated countries.

Restrictions were imposed regarding the use of funds for providing sophisticated weapons. The nondesignated countries could not be provided sophisticated

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<sup>2</sup>The designated countries were Greece, Indonesia, Jordan, Republic of Korea, Philippines, Thailand, Turkey, and Ethiopia (89:Sec.101).

weapons, such as missiles or military jet aircraft, unless the President determined that providing such systems was important to U.S. national security and reported such a determination to Congress (89:Sec.101).

#### Special Authority

The President was authorized to provide support to friendly and allied nations from the stocks held by the U.S. military in the event an unforeseen emergency arose which required immediate military assistance and failure to respond would result in serious harm to U.S. security interests. Before implementing this standby provision, however, efforts to meet the assistance need through other legal provisions should be used. The stocks (and services) used under this authority were limited in value to \$67.5 million with revised ceilings for the special authority to be contained in subsequent appropriations legislation. The withdrawal of stocks would require follow-on appropriations for replacement purposes. Full and current information of all articles and services provided under the special authorization would be provided Congress by the President (89:Sec.102).

#### Termination of Military Assistance Advisory Groups and Missions

The law required termination of the MAAGs after September 30, 1977, with the exception of those



specifically authorized by Congress. As a first stage in the termination process the Congress directed the closure of at least ten MAAGs by authorizing only 34 MAAGs after September 30, 1976. The President was authorized, however, to assign not more than three members of the Armed Forces to the Chief of each United States Diplomatic Mission to perform security assistance tasks. These members could be used to replace MAAGs or be assigned to countries where MAAGs did not currently exist. Also, defense attaches were prohibited from performing security assistance functions after September 30, 1977 (89:Sec.104).

#### Termination of Grant Military Assistance

A new section was added to the Foreign Assistance Act for phasing out

. . . the major elements of the grant military assistance program by the end of FY 1977. No new grant military assistance, other than for limited types of training . . . [will] . . . be provided after September 30, 1977, unless specifically authorized . . . [100:24].

Authority was also provided to use funds for closing out existing grant aid programs (89:Sec.105).

#### International Military Education and Training

A new chapter was added to the Foreign Assistance Act of 1961 to describe the purposes of education and training activities. This chapter authorizes the President

to furnish military education and training to personnel of foreign countries. Whenever feasible this education should be on a reimbursable basis, however, authorizations of \$27 million and \$30.2 million were provided for FY 1976 and FY 1977 nonreimbursable programs. After June 30, 1976, no training could be conducted outside the United States unless the President reported and justified such training to the Congress.

Previously the number of students to be trained in the United States in any one year was limited. This constraint was removed by the new legislation (89:Sec.106).

#### Arms Export Control Provisions

##### Title Change

The name of the Foreign Military Sales Act was changed to the Arms Export Control Act to show a shift in emphasis towards controlling the export of arms (89:Sec.201).

##### Arms Sales Policy

The International Security Assistance and Arms Export Control Act of 1976 expresses the policy that the United States will exert leadership to reduce the international trade of arms by all nations. It urges the President to convene an international conference to consider measures to limit international arms transfers. U.S. arms transfers sold or approved for export in any fiscal year

should not exceed the aggregate value of the defense articles and services sold or exported currently, in the sense of the Congress.

The President was requested to conduct a study of arms sales procedures and rationale and report his findings within one year (89:Sec.202).

#### Approval for Transfer of Defense Articles

The President was prohibited from consenting to the transfer of defense articles sold under the Foreign Military Sales Act or redistribute such articles from one country to another unless a report was submitted to Congress thirty days in advance of the transfer or redistribution (89: Sec.204).

#### Sales from Stocks

This section of the Act of 1976 prescribed payment in U.S. currency and the manner in which the price for a defense article or service would be determined. Essentially this price was to be the actual value for articles that would not be replaced in the U.S. inventory. For items to be replaced, the sale price would be an estimate of replacement cost less depreciation. The price for a defense service would be the full cost to the U.S. Government for providing the service. More importantly, this section also prohibited personnel performing defense

services outside the United States from performing combatant duties, including any duties related to training, advising, or otherwise providing assistance regarding combat activities (89:Sec.205).

#### Sales from Stocks Affecting United States Combat Readiness

The sale of defense articles and services which could have a significant effect on the combat readiness of U.S. forces had to be minimized. Any proposed sale of this nature was required to be completely explained and justified to the Congress (89:Sec.206).

#### Procurement for Cash Sales

The Act of 1976 required the Secretary of the Treasury to determine the interest rate to be charged on the net amounts of arrears payments.

The rate of interest charged shall be a rate not less than a rate determined . . . by taking into consideration the current average market yield on outstanding short-term obligations of the United States as of the last day of the month preceding the net arrearage and shall be computed from the date of arrearage [89:Sec.207].

#### Extension of Payment Period for Credit Sales

The maximum credit sales payment period was extended to twelve years from the previous ten-year maximum. This credit extension was applicable to those agreements entered into after June 30, 1976 (89:Sec.208).

Annual Estimate and Justification  
for Sales Program

The President was required to transmit to the Congress an unclassified report estimating the size and justifying reasons for the proposed sales program for the next fiscal year. This report was required to be a part of the foreign assistance program presentation materials. It was required to include an estimate of the amount of sales proposed to be made to each country to include a detailed explanation of the foreign policy and national security considerations involved in these sales; an estimate of credits and guarantees expected to be extended to each country; findings as to each country's eligibility and how the sale will strengthen the security of the United States and promote world peace; and an arms control impact statement to include the impact on the stability of the region which includes the purchasing country. It was further stipulated that the President would submit any additional information requested by congressional committees within thirty days of the request (89:Sec.209).

Authorizations

For FY 1976 an authorization of \$1,039 million was established for credit sales and guaranteed loans. However, a ceiling of the aggregate amount of credits extended and principal amount of loans guaranteed was

established at \$2,374.7 million.<sup>3</sup> Not less than \$1,500 million of the total program ceiling was earmarked for Israel.

Similar stipulations were applied to FY 1977. The authorization amounted to \$740 million. The ceiling was established at \$2,022.1 million and not less than \$1,000 million was for Israel.

Israel was provided additional favorable terms. The twelve-year payment period was waived by specifically establishing a repayment period of not less than twenty years following a grace period of ten years on repayment of principal. Repayment of one-half of the financed purchases in each year was to be forgiven.

Excess defense articles delivered to foreign countries or international organizations was limited to a maximum of \$100 million per year after 1976. The value of these excess articles was stipulated as the aggregate acquisition cost to the United States. Ships and their on-board stores and supplies were exempt from this provision (89:Sec.210).

#### Reports on Commercial and Governmental Military Exports

Public disclosure of arms sales activities was strengthened through revised requirements for quarterly

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<sup>3</sup>This amount exceeds the appropriation because guaranteed loans require only ten percent of the face value of the loan in budget appropriations whereas direct loans require full funding (100:32).

reports to the Congress. Advance reports of certain proposed government-to-government sales are required, also. As stated in Chapter III, previous legislation had contained a provision for Congress to be provided twenty calendar days to reject a proposed sale totaling \$25 million or more (via concurrent resolution) unless the President stated an emergency existed and the sale was in the national interests of the U.S. This provision was revised by the Act of 1976 to require reporting all proposals to sell major defense equipment with a unit value of \$7 million or more and retained the \$25 million provision. It changed to thirty calendar days the time frame allowed for concurrent resolution to be adopted by Congress to reject a proposed sale. The President retained his emergency powers.

Similar requirements were set forth when a commercial export license was requested for military articles or services, including technical data, with a value of \$7 million per item or \$25 million in aggregate value. Before such a license can be issued the Congress must be afforded thirty calendar days to object through concurrent resolution.

Commercial technical assistance or manufacturing licensing agreements with a country other than a member of the North Atlantic Treaty Organization (NATO) which involves the manufacture abroad of articles on the United

States Munitions List must be forwarded to Congress for similar review (89:Sec.211).

Control of Licenses With Respect  
to Arms Exports and Imports

The President was authorized to control the import and export of defense articles and services in furtherance of world peace and the security and foreign policy of the U.S. In this regard, the President provides foreign policy guidance to persons of the U.S. involved in export and import of such articles and services. He designates the items to be considered defense articles and services by including such items on the United States Munitions List.

The Act establishes the requirement for decisions regarding issuance of export licenses to be made in coordination with the U.S. Arms Control and Disarmament Agency and to take into account whether the export will contribute to an arms race, increase the possibility of conflict escalation or outbreak, or prejudice development of arms control arrangements.

With the exception of U.S. Government employees acting in an official capacity, every person who engages in the manufacture, exporting, or importing of items on the United States Munitions List was required to be registered with the U.S. Government and to pay a registration fee.



No United States Munitions List items could be exported or imported without a license issued in accordance with the Act of 1976 and regulations issued under the Act, with the exception of certain shipments made by or for an agency of the United States Government. Furthermore, no license could be issued for the export of any major defense equipment sold under a contract of \$25 million or more to any non-NATO member country. Such sales would have to be sold on a government-to-government basis. Fines and terms of imprisonment were stipulated for violations (89:Sec.212).

#### General Limitations Provisions

##### Human Rights

A revision to the Foreign Assistance Act of 1961, contained within the Act of 1976, specifies that a principal goal of the U.S. foreign policy will be to promote an increased observance of internationally recognized human rights. As a matter of policy the U.S. will provide no Security Assistance to any country whose government consistently violates human rights, "except under situations specified in this section [89:Sec.301]."<sup>4</sup> The President was directed to formulate and conduct Security Assistance programs in a manner that would promote human

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<sup>4</sup>No exceptions were specified in the section although the Foreign Assistance Act of 1974 had stated "except in unusual circumstances [97:69]."

rights practices and assure the U.S. could not be identified with countries violating these rights.

The Coordinator for Human Rights and Humanitarian Affairs was established within the Department of State. Reports from the Coordinator and the Secretary of State pertaining to the human rights practices of each country proposed to receive Security Assistance was stipulated. At any time after receiving such a report, Congress could adopt a joint resolution to restrict, terminate, or continue assistance. For purposes of this particular section of the Act, human rights violations were defined as:

. . . including torture, or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, and other flagrant denial of the right to life, liberty or the security of person [89:Sec.301].

#### Prohibition Against Discrimination

The Act of 1976 stated that as a policy of the U.S., no grant military assistance should be furnished to any country which prevents any U.S. citizen from participating in the furnishing of defense articles or services on the basis of sex, race, religion, or national origin. Furthermore, no U.S. agency performing military assistance functions would heed exclusionary policies or practices based on sex, race, religion, or national origin. Any contract entered into by any agency would contain a provision to the

effect that the contracting party would not heed such exclusionary policies or practices. Any violations would be reported to the Congress by the President along with recommended actions (89:Sec.302).

Prohibition of Assistance to  
Countries Granting Sanctuary  
to International Terrorists

A new section was added to the Foreign Assistance Act to require termination for a one-year period of assistance to any country which aids terrorists by granting sanctuary except when the President finds national security requires continuation of such assistance (89:Sec.303).

Ineligibility

Provisions are set forth to terminate assistance and deliveries, including some deliveries pursuant to previous cash sales,<sup>5</sup> for countries violating provisions of agreements. No credits or guaranties may be extended to a country violating sales agreements. The violations which might require termination are (1) using the articles or services for unauthorized purposes; (2) transferring the articles or permitting their use by anyone not an officer, employee, or agent of the recipient country

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<sup>5</sup>Cash sales and deliveries pursuant to previous sales may continue if the President declares such terminations would have a significant adverse impact on security of the U.S. even though a country is declared ineligible for credits, guaranties, and MAP assistance because of these violations (89:Sec.304).

without obtaining consent of the U.S. President; or  
(3) failing to maintain the security of the articles.

A country may be determined to be ineligible by the President, provided he reports his determination to the Congress, or by the congressional adoption of a joint resolution (89:Sec.304).

#### Provisions Related to Specific Regions or Countries

##### Middle East Policy Statement

In accordance with the International Security Assistance and Arms Export Control Act of 1976, the U.S. will continue to determine Middle East policy as circumstances require. Neither the authority contained in the joint resolution to implement the U.S. early warning system in the Sinai (Public Law 94-110) nor the authorizations in the International Security Assistance and Arms Export Control Act of 1976 constitute congressional approval, acceptance, or endorsement of any undertaking by any U.S. official to any government in the Middle East, other than the early warning system (83:Sec.401).

##### Assistance to Turkey

Restrictions on assistance to Turkey were modified to permit the President to waive earlier prohibitions so \$125 million in defense articles and services could be procured by Turkey to fulfill her NATO responsibilities.

However, Turkey must observe the ceasefire on Cyprus; must not increase its civilian population or military forces on Cyprus; and must not transfer U.S.-supplied arms, ammunition or implements of war to Cyprus (89:Sec.403).

#### Angola

U.S. assistance of any kind which would have the effect of promoting or augmenting the capacity of any nation, group, organization, movement, or individual to conduct military or paramilitary operations in Angola was prohibited (89:Sec.404).

#### Prohibitions Regarding Chile

Grant military assistance, military education and training assistance, security supporting assistance, credit extension, loan guarantees, cash sales, and commercial sales of defense articles and services were prohibited. Delivery of items currently in the pipeline was also prohibited (89:Sec.406).

#### Report on Korea

A report was required to be made by the President within ninety days of the legislation's enactment and at least annually for the next five years with respect to Korea. The report was required to review the progress made under the Republic of Korea armed forces modernization and self-sufficiency program, the role of the U.S. in mutual

security efforts in the Republic of Korea, and the prospects for phased reduction of U.S. military personnel assigned to duty in Korea. The President was further requested to communicate to the Republic of Korea the concern of Congress with respect to the erosion of important civil liberties in that country (89:Sec.411).

#### Miscellaneous Provisions

##### Fees of Military Sales Agents and Other Payments

The Secretary of State was required to obtain adequate and timely reporting on political contributions, gifts, commissions and fees paid, or offered or agreed to be paid by any person engaged in the sale of defense articles and services licensed or approved through FMS procedures or commercial sales of such items. All information reported to the Secretary of State and supporting records will be made available to Congress or authorized agencies of the U.S. Government upon request (89:Sec.604).

##### Use of Personnel

The Act of 1976 calls for civilian contract personnel to be used, to the maximum extent possible, to perform defense services sold and to be performed in a foreign country.

The Act also contained a paragraph so it could not be construed as authorizing additional military or civilian personnel for the Department of Defense (89:Sec.605).

#### Extortion and Illegal Payments

Within sixty days of determining that officials of a foreign country receiving Security Assistance have received illegal or otherwise improper payments from a U.S. corporation in return for a defense contract or for permission to do business in that country, the President was required to report the circumstances to Congress. A recommendation as to whether the U.S. should continue assistance to that country would be included in the report (89:Sec.607).

#### Rationale for the Provisions

The principal purposes of the bill were to revise U.S. policies concerning foreign military grant assistance and military sales and exports; expand and strengthen congressional oversight procedures; and provide authorizations (100:1).

The Administration's funding requests were reduced by \$273.4 million for FY 1976 and by \$56.2 million in FY 1977<sup>6</sup> (96:47). The apparent increase in administrative

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<sup>6</sup>These reductions are for the total program including MPA, administration, military education and training, FMS credits, contingency fund, narcotics control, security supporting assistance, Middle East special requirements fund, Aid to Cypriot refugees, International Atomic Energy Agency, and disaster relief for Italy and Lebanon (96:47).

funds between 1976 and 1977 (\$32 million to \$70 million) was because of a law requiring all costs of MAAGs and related organizations overseas to be funded from the military assistance appropriation as of FY 1977. Previously, some of these expenditures were not separately identified to Security Assistance (100:16).

The Administration wanted \$1,065 million to finance total FMS credits and loan guarantees of \$2,374.7 million during FY 1976. Additionally, the executive branch asked for \$840 million to finance a \$2,059.6 million program during FY 1977. The legislation reduced these amounts to \$1,039 million (for a \$2,374.7 million program) in FY 1976 and \$740 million (for a \$2,022.1 million program) in FY 1977 (96:47). The reason for the reduced authorizations in FMS credits and guarantees was because Congress assumed a substantially larger percentage of guaranteed loans than did the Administration. The loan guarantees require budget appropriations amounting to only ten percent of the face value of the loan whereas credits (direct loans) require full funding (100:32).

The Senate's Committee on Foreign Relations had attempted to reduce the number and size of U.S. military missions and groups abroad for several years. Chapter III identified some of the legislative provisions from those efforts. In 1976, there were forty-four MAAGs and eight defense attaches handling Security Assistance matters.



The cost to the U.S. for operating these organizations was \$62.84 million in FY 1976 with the host governments providing an added \$12.1 million. MAAGs remained in seven Western European nations although grant aid programs had been terminated for these countries several years earlier (100:19-23). Since the MAAGs' primary mission was administering grant aid programs, the validity of their continuance was questionable. Some congressmen opposed MAAGs on the grounds of economy while other opposition was generated because of an antimilitary mood, according to Representative Edward J. Derwinski (R., IL). Still others opposed MAAGs because they felt the groups were relics of the past and their continuation could lead to commitments and involvements beyond stated policy. Some charged that the main purpose of the MAAGs was to encourage arms sales (82:374-5).

The change in emphasis from commercial sales to government-to-government mandated sales to non-NATO nations and the requirement for notification to Congress of export license applications was designed to exert more control by Congress (19).

The emphasis on visibility of the U.S. arms program was consistently applied by requiring reporting of actions, taken or contemplated. Efforts to keep these reports unclassified were urged. The Departments of State and Defense were required to submit forty-nine reports as

a result of the legislation. These reports varied from agents' fees to all "letters of offer" to sell major defense equipment valued at \$1 million or more and sales projections to estimates of the number of officers and employees of the U.S. Government and U.S. contractor personnel present in each country (1:358).

All congressmen were not in accord with the provisions in the Act of 1976, however. Representative Derwinski's supplemental views were published in H.R. Report 94-1144. There he stated the provisions severely obstructed the President's ability to exercise his constitutional responsibility for the conduct of foreign affairs. Regarding the use of concurrent resolutions, he said:

While the committee [on International Relations, House of Representatives] in its wisdom exorcised certain concurrent resolution provisions of dubious constitutionality, it did miss two such provisions which affect our ability to meet our own national security interests. . . .

. . . Congress, if it disagrees with a proposed arms sale for whatever reason, should follow proper procedure and pass specific legislation prohibiting the sale. Instead of a concurrent resolution, it should pass a law that would be offered to the President for signature or veto [93:111-2].

Representative Derwinski believed the phase-out of MAP programs and MAAGs on short notice was a mistake. And in regard to the limitations imposed on the Republic of Korea, he believed the forty percent reduction in grant aid and FMS credits requested would significantly delay

the military self-sufficiency program and was thus at odds with U.S. objectives (93:111-2).

Representative Paul Findley (R., IL) attacked the reduced assistance to the Republic of Korea, also:

Some have decided that a savage cut in military credit sales and assistance to the Republic of Korea is a good way to indicate our displeasure over the status of civil liberties in that country. This approach is, in the most massive sense, wrong headed and dangerous.

Rather than leading to the reconstruction of civil liberties which all of us would quite naturally desire, this amendment is likely to lead to the imposition of even more draconian provisions. Insofar as the authoritarian character of the Park regime derives from a sense of insecurity about national self preservation, it is difficult to see how we can enhance civil liberties by further reducing the Republic of Korea's capability to protect itself [93:113].<sup>7</sup>

After enactment of the Act of 1976, the basic question remained. Could the U.S. use Security Assistance programs as an effective tool of foreign policy in assuring national security and yet control the objectionable practices which had become associated with these programs?

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<sup>7</sup> The ceiling limit was not a provision of the enacted legislation. However, the discussion shows the dilemma facing Congress and the Administration in relating human rights and military assistance.

## CHAPTER V

### INITIAL IMPACT OF THE ACT OF 1976

At the time of this writing, the full impact of the International Security Assistance and Arms Export Control Act of 1976 had not been felt. Consequently, the requirements for expanded reporting, the activities of contract operations, the closures of MAAGs, and similar aspects of the new legislation, had only just begun to require industrial and political accommodations. A political event which may have delayed the impact of the Act was the election of Jimmy Carter as President and the resulting disruption to the administrative branch during the transition period. However, there have been some initial consequences upon industry, the Departments of State and Defense, and the Congress, as well as on the new administration as it assessed the direction to employ in arms trade matters. This chapter will address the impact on each of these.

#### Impact on Industry

Leonard A. Alne, an industrial consultant, addressed the Act in the fall of 1976 at an International Logistics seminar sponsored by the American Defense Preparedness Association. Although he believed Congress had

not aimed its legislation punitively at U.S. industry, he thought it apparently failed to understand the lengthy "iterative dialogue that industry must orchestrate and sustain before a system can be configured with the precision necessary to bring forth a decision to buy . . . [1:359-60]." As a result, some resentment had occurred within industry because of the Act's provisions.

Industry did not welcome the extensive reporting requirements according to Mr. Alne. The declassification of data to enhance public disclosure could result in dissemination of industrial proprietary information. Industry was concerned that the limited justification for classifying information (i.e., only for national security reasons) would damage a corporation's proprietary interests and the interests of buyers.

Mr. Alne believed the export of major systems would continue wherever it was apparent that such transactions were in the interests of U.S. national security. But the sale that could not be readily identified with U.S. national interests might not be made. Included among the disallowed sales would be those to countries unwilling to disclose their intended use for the desired articles. However, in the long run, U.S. defense technology would continue to excel and free world desire for and access to U.S. defense technology would continue despite the legislative barriers. Once Congress became involved in the

decision-making process, it would learn that decisions had to be made one at a time as events unfolded. The "comfort of broad generalizations" would no longer be applicable. According to Mr. Alne, industry should welcome the advance analysis of a prospective sale's merits. He felt Congress would make valid judgments when it became necessary (1:359-60).

The phaseout of MAAGs caused industrial concern as well. An Olin Corporation official, Mr. Harry Fresh, indicated the Office of Defense Cooperation<sup>1</sup> would make things slightly more difficult because it would not be as well informed. The primary MAAG advantage, as far as commercial firms were concerned, was the help a MAAG provided companies to understand and know their customers. And the customers relied on the MAAG to tell them what they needed. Mr. P. S. Devirian, vice president of FMC Corporation, indicated the abolition of MAAGs and other U.S. military support teams would mean the U.S. defense industry would have to perform more follow-on supply services. In order to accomplish this task, industry would have to expend more effort to cultivate trust and respect in order to persuade the customer country to provide proper logistical training and related support. He further stated:

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<sup>1</sup>The three-man military team authorized to be assigned to the Embassy in place of the MAAG.

With the loss of the assistance of MAAGs, we can anticipate that foreign countries will experience difficulties and delays in selecting U.S. contractors to provide their future logistical support. The developing nations will be affected the most. They normally do not have the organization and expertise to evaluate adequately which firm or firms should be awarded the task of providing follow-on support.

This entails a degree of participation in sophisticated procurement operations for which they simply aren't adequately staffed. There are a number of firms around the world which are hard at work trying to sell their hardware in competition with us, aided and abetted by their governments, in contrast with the current attitude of our Congress. Who am I to say just how much military equipment another country should have; but an over-all wet blanket seems shortsighted to me. What better way to control world use of military equipment than to have other countries depend on the U.S. for follow-on support for their equipment [82:376].

#### Impact on the Department of State

The Department of State began work early to identify the MAAGs to retain after FY 1977. It realized a persuasive justification would have to be developed. Otherwise congressional authorizations might be delayed, resulting in costly interruption to MAAG operations. In conjunction with the Department of Defense (DOD), an effort was required to identify the diplomatic missions where Offices of Defense Cooperation were desired and to specify functional responsibilities.

Diplomatic notes had to be forwarded to recipient countries so use and transfer provisions would be extended to training and services rendered under MAP. To comply with the requirements for recapturing administrative costs, renegotiation of existing agreements with the Federal

Republic of Germany, Canada, and perhaps other countries was required (112:6-13).

These were just a few of the actions required by the State Department to implement the Act. Additionally the Department had to establish the office for Human Rights and Humanitarian Affairs and its Coordinator had to be appointed by the President with the advice and consent of the Senate. And then there were the reporting requirements which necessitated data gathering and collation.<sup>2</sup> Finally, diplomatic channels had to be used to convey congressional displeasure with human rights practices in Korea, Mexico, and Chile and to attempt to convene a conference for limiting arms trade (112:8-58).

In late September 1976, however, Senator John C. Culver (D., IA) released a summary State Department report which dismissed as unrealistic any worldwide attempt to limit the accelerating international arms trade. The analysis on which this report was based, suggested formidable political and psychological obstacles prevented meaningful restraint arrangements. Restraint proposals would need to be limited to arms shipments from industrial states to underdeveloped nations in order to have any chance of

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<sup>2</sup>Forty-six reports were identified for State Department submission. Some of these were to be accomplished in conjunction with the DOD (112:53-8).



adoption. However, most developing nations would view any such arms transfer restraint proposal as discriminatory and designed to perpetuate their military inferiority. As a practical matter, even selective restraints would prove difficult to negotiate (78:16).

Several other activities concerning the Security Assistance programs involved the Department of State once the new administration assumed control on January 20, 1977. Some of these activities will be addressed later in this chapter.

#### Impact on the Department of Defense

The Department of Defense (DOD) participated in the assessment and determinations to be made concerning the MAAGs. The initial requirement was to identify the ten MAAGs which were to be abolished as of October 1, 1976. The Department of Defense, in conjunction with the State Department, closed MAAGs in eleven countries<sup>3</sup> and established Offices of Defense Cooperation in their stead (19). DOD officials expressed anguish and expounded the merits for continuing the MAAGs. These organizations continued to have a key role in the system through which Security Assistance programs were identified, developed, and implemented. Additionally, MAAGs provided DOD representation

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<sup>3</sup> These countries were Belgium, Costa Rica, Denmark, France, Germany, India, Italy, The Netherlands, Norway, Paraguay, and Uruguay (19).

in the host country to establish and maintain a relationship of mutual trust and confidence. They provided military advice to the American Ambassador. According to the Director of the Defense Security Assistance Agency (DSAA), Lieutenant General Howard M. Fish, MAAGs were essential and their elimination would strain relations with friends and allies.

Colonel Kenneth E. Murphy, USA, Secretary of the Inter-American Defense Board, emphasized the importance of the Latin American MAAGs<sup>4</sup> by noting "For just a few million dollars, we had a whole hemisphere working with us. If we take out military assistance, they will view it as our breaking the faith [82:375]." Colonel Murphy pointed out that the Soviet Union wanted to get United States MAAGs eliminated in South America because they viewed such action as being the most important requirement for improving Soviet relations there. "In retrospect," said Colonel Murphy, "the MAAGs probably have paid off more than any other effort we have made in the hemisphere over the years . . . [82:374-5]."

Colonel Basil Manly III, of the U.S. Air Force Acquisition Logistics Division, also defended the MAAGs. He said the MAAGs contributed greatly to the communications with a recipient country. However, this communications

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<sup>4</sup>MAAGs within Latin America are generally referred to as Military Groups and Military Missions (82:374).

role had diminished over the years because of earlier personnel reductions and could not be attributed solely to the Act of 1976. Colonel Manly was delighted with the Act's provision preventing attaches from dealing in Security Assistance programs because the personnel assigned to these offices were normally operations oriented with sufficient responsibilities in the diplomatic and intelligence roles. Attaches were not sufficiently versed in the disciplines necessary to assure logistics requirements were met. He was concerned, however, about the Office of Defense Cooperation. He felt such a small team might tend to have a similar orientation as the attaches so as to prevent it from contributing positively to the logistics needs of a country (48).

Another aspect of the legislation's passage was a shift in the emphasis placed upon FMS sales. Previously the DOD seemed to be proud to report the volume of its sales activities. During the latter part of 1976 and in early 1977, sales volume reporting started to highlight the nonlethal type of sale as compared to the lethal variety. While such a reporting change might appear cosmetic to critics of Security Assistance programs, it illustrated effectively that many of the defense articles and services transferred to other countries have not been warmaking items. For instance, 63 percent of the arms transfers to Saudi Arabia have been such things as

construction of infrastructure and other facilities, including barracks and even Mosques (19). While the worldwide breakout of defense articles and services (those provided by MAP, MASF, and FMS Orders combined) for the cumulative period 1950 through 1976 showed supporting services<sup>5</sup> to constitute 26.1 percent of the total, the percentage for FY 1976, including the transition quarter, was 33.7. Weapons and ammunition constituted 40 percent of the cumulative years shipments but only 36.1 percent for 1976 and the transition quarter.

The FMS figures for the Near East and South Asia Region were more enlightening. Supporting services represented 44.5 percent of FY 1976 total with spare parts and supporting equipment combining to make up an additional 22.9 percent (106:1-3).

Reporting requirements posed greater workload upon the DOD. Unclassified reports concerning all "letters of offer" to sell major defense equipment values over \$1 million along with total credits for each country and sales projections were mandated. Also, a report had to estimate the number of U.S. Government and civilian contract personnel present in each country at the conclusion of each quarter. The requirement to report agents' fees in connection with FMS sales was begun in August 1975, when DSAA

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<sup>5</sup>Supporting services include construction, supply operations, training, and technical and administrative services (106:1).

issued a directive to assure all fees anticipated to be included in FMS contracts were known to the purchasing government in advance.

The requirement to obtain congressional approval of large FMS transactions had been in force since December 1974. None of the first 152 proposed sales had been disapproved although in two cases the Administration had reduced the quantity of items to be sold after negotiating with the Congress (1:358-9). This particular reporting requirement also had an impact upon the purchasing country. The DOD tightened up controls by requiring more justification as to the need visualized by the purchasing country before processing new purchase requests. More significantly, DOD established closer scrutiny of supply support arrangements to assure foreign customers were not dipping into U.S. stocks at the expense of U.S. military forces' readiness capabilities (48).

One other change in the DOD is worthy of note. The Security Assistance Accounting Center, with the U.S. Air Force acting as executive agent, was organized and colocated with the Air Force Accounting and Finance Center at Denver, Colorado. It assumed the centralized FMS billing, cash collection, trust fund accounting, and administrative fee management for all DOD military departments (67:29). Although not contained in the final legislation, the Senate Committee Report on S. 3439 (S. Report 94-876)

pointed out that the billing and collecting activities used a variety of procedures depending upon which military department the activity was assigned. It was the Committee's desire that DOD take immediate action to improve and centralize management and control of FMS billing and collecting (100:31). Apparently this desire and the legal provisions requiring charges to cover all incurred expenses were sufficient incentives to establish the centralized activity.

The Director of DSAA probably best expressed the consensus of the DOD regarding the stipulations of the Act. He optimistically concluded that the law was workable. He said the DOD would continue to work closely with the Congress to assure implementation of the new legislative provisions. Finally, he emphasized Security Assistance would continue to be an important, dynamic foreign policy tool for furthering national interests of the United States (1:359).

Just as with the State Department, the Department of Defense became involved in the reassessment actions which accompanied the new Administration. These actions will be presented in the section of this chapter dealing with the Carter Administration.

#### Impact on the Congress

The Senate Committee on Foreign Relations believed the International Security Assistance and Arms Export

Control Act of 1976 constituted "the most significant piece of legislation in the field of foreign military assistance policy since the enactment of the Mutual Security Act more than a quarter of a century . . ." before (100:8). The entire Congress, including opponents to the legislation, might well agree with such an assessment, but for a variety of reasons.

It was significant because it increased "the reach" of Congress into executive branch functions (1:359; 93:111).

It was significant because it violated the principle that Government should restrict its executive activities to those things it could do better than could private enterprise<sup>6</sup> (1:360).

Even more importantly from a political scientist's perspective was the expanded use of the Nelson Amendment, "veto by concurrent resolution" (1:359; 93:111). President Ford considered this type of congressional veto as encroachment on the executive branch's constitutional authority to implement policy. Virtually all significant arms sales decisions would be subjected to delay while Congress reviewed the cases to determine whether to disapprove a sale. According to the President, such a provision was incompatible with the stipulation in the

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<sup>6</sup>This comment was made in reference to the requirement that large sales to non-NATO countries had to be FMS rather than commercial sales.

Constitution that a resolution having the effect and force of law must be presented to the President and, if disapproved, repassed by a two-thirds majority in the Congress. The concurrent resolution technique extended to Congress the power to prohibit specific legislatively authorized sales without changing the law. Also, the Congress could involve itself directly in the performance of Presidential functions, disregarding the separation of powers principle. President Ford believed "Congress cannot itself participate in the Executive functions of deciding whether to enter into a lawful contract or issue a lawful license . . . [113:III-IV]." Because of this belief, the President issued a statement upon signing the bill:

. . . The manifest incompatibility of such provisions [whereby authority conferred on the President by law could be rescinded by adoption of a concurrent resolution] with the express requirements of the Constitution that legislative measures having the force and effect of law be presented to the President for approval and, if disapproved, be passed by the requisite two-thirds majority of both Houses was the single most serious defect . . . and one which went well beyond security assistance and foreign affairs in its implications. . . .

. . . Although I am accepting H.R. 13680 [the International Security Assistance and Arms Export Control Act of 1976] with this provision included, I reserve my position on its constitutionality if the provision should ever become operative [69:199].

The more immediate impact of the legislation upon the Congress was the question of whether a large legislative body would have sufficient information and technical judgment to make correct and timely decisions on specific



transactions. Would Government controls be workable and effective? As stated earlier, Congress did not disapprove any of the first 152 cases it reviewed (1:358-60). As the October 2, 1976, congressional adjournment date for electioneering neared, Aviation Week & Space Technology reported the prospects for any concurrent resolution veto were dwindling. Even though proposed sales of F-16 (to Iran), F-5 (to Saudi Arabia, Philippines, and Singapore), T-2 (Morocco), OV-10 (Korea), P-3C (Australia) aircraft; Sidewinder (Saudi Arabia, Iran, Pakistan, Korea, and Singapore), Maverick (Saudi Arabia), TOW (Saudi Arabia), Sparrow (Iran), Phoenix (Iran) missiles; and assorted helicopters (Israel and Iran) had prompted Senator Gaylord Nelson (D., WI) to introduce 37 disapproval resolutions, it appeared the legislative process was overly time consuming to halt the sales (73:30). One of the overriding reasons the Congress might not be able to act was the question of whether it could assimilate the data in the reports it was to receive. Senator Humphrey had identified this potential problem earlier and expressed his concern when he commented that having no staff assistance for the Subcommittee on Foreign Assistance was "one of the most stupid ways I can think of of trying to economize in Government, and I hope a staff will be provided [101:13]."

After the Presidential and congressional elections of 1976, the Congress had many tasks to accomplish

concerning the transition to a new Administration and organizing the 95th Congress: confirming Presidential Cabinet and other appointments, selecting committee chairmen, and appointing new members to congressional committees. They also began action on the International Security Assistance and Arms Export Control Act of 1977 (Senate bill S. 1160 and House of Representatives bill H.R. 6884). This legislation would provide the appropriation authorizations for fiscal year 1978, the MAAG authorizations for the period beginning October 1, 1977, and changes required to previous legislative provisions (99:1-11; 108:1-4).

#### Impact on the New Administration

During his campaign for election as President, Mr. Jimmy Carter interjected the arms sales issue when he said the U.S. could not be "both the world's leading champion of peace and the world's leading supplier of weapons of war [26:3]." Mr. Carter continued to attack U.S. Government arms sales policies throughout the campaign. He promised changes.

Upon election to office, President Carter started to assess the Security Assistance programs along with performing his other responsibilities. To complicate matters, the President was methodical in appointing people to policy jobs. As of March 20, several important positions had not

been filled<sup>7</sup> while those individuals already assigned were overworked and experiencing uneven success in mastering their new jobs. Several substantive policy initiatives were announced but few had resulted in completed actions nor had the policies progressed sufficiently to judge results (3:A1-A6).

However, the Departments of State and Defense did initiate a complete review of the Security Assistance programs in response to President Carter's direction (Presidential Review Memorandum Number 12) (19). In a statement to the Subcommittee on Foreign Operations of the Senate Committee on Appropriations, February 24, 1977, Secretary of State Vance testified about the new Administration's approach to foreign assistance. Concerning Security Assistance, he said:

Our military assistance programs are important to our relations with many friendly nations and allies, to offsetting the strength of potential adversaries, and to keeping the peace where regional conflicts threaten it.

U.S.-funded military assistance is one of the arms transfer issues which are under policy review by the Carter Administration. You know of our commitment to bring order, restraint, and much stricter codes of control to all arms transfers. Too often, short-term political or tactical advantages have been sought without due regard to the possible longer range effects of arms sales on regional stability and peace [76:240].

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<sup>7</sup> Department of State had 21 subcabinet jobs which required Senate confirmation. Nominations for seven of these had been sent to Congress and only three had been confirmed. The DOD had 15 such positions with five nominated and one confirmed (3:A6).

Secretary Vance recommended only slight changes to the Ford Administration's budget request for grant assistance and FMS credits/guarantees<sup>8</sup> (76:240). During this same period, Secretary Vance told a congressional hearing that human rights versus national defense was difficult to apply. It had to be determined on a case-by-case basis rather than by establishing ironclad rules (6).

Meanwhile, the Washington Post contended the new President was playing "the role of world prophet of human rights" by publicly deploring conditions in other countries. Unfortunately, according to the newspaper, the President seemed to have found that "when you clobber a nation publicly on this issue, you risk arousing its nationalism in a way that not only damages other American interests but rebounds on human rights" to the degree that the U.S. loses its ability to influence the country's actions (70:C6). Uruguay and Argentina expressed their displeasure with U.S. statements about their human rights practices (85:6). Brazil terminated a twenty-five year mutual defense agreement because of U.S. human rights involvement in that country (7). Congress was told by the Department of State that, except for Western European and a few other countries, human rights were being violated in varying degrees by 82 countries receiving some form of U.S. assistance (34:12A).

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<sup>8</sup>The Carter request was for \$973 million versus Ford's \$976 million. The Carter Administration's Congressional Presentation Document stated that President Ford's request was very wise and supportive of national objectives and foreign policy (76:238-40).

The new Administration did not confine itself to the human rights arena. It reviewed the sale of 650 Maverick and 580 Hawk missiles to Saudi Arabia (5:6). President Carter communicated with the Soviet Union, France, Germany, and the United Kingdom in an effort to reduce the quantity of arms sold throughout the world (44:5A). On May 19, President Carter announced his policy to restrain arms transfers. He said,

. . . the United States will henceforth view arms transfers as an exceptional foreign policy implement, to be used only in instances where it can be clearly demonstrated that the transfer contributes to our national security interests. We will continue to utilize arms transfers to promote our security and the security of our close friends. But, in the future, the burden of persuasion will be on those who favor a particular arms sale, rather than those who oppose it [115:1].<sup>9</sup>

Finally, on June 30, the Presidential-directed review was culminated with a report submitted to Congress. This report was in compliance with the stipulations in Sections 202(b) and 218 of the International Security Assistance and Arms Export Control Act of 1976. In this report, the President recognized the subject of arms transfers was not a single problem. Yet a clearer definition of purpose and more control, coherence, and restraint in U.S. military exports were needed. He realized the U.S.'s ability to restrain the international arms trade depended

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<sup>9</sup>The complete text of the President's statement is at Appendix C.

on the ability to gain cooperation of potential alternative suppliers. Communist suppliers would not be likely to cooperate because they are motivated to support countries neighboring recipients of U.S. arms. However, the prospect that other countries would voluntarily and spontaneously follow a U.S. model of restraint was equally unlikely.

Cancellation of existing contracts or refusal to support previously sold contracts would be likely to provoke sharp reactions from purchasing countries. Therefore, the U.S. would honor existing contracts and requirements for follow-on support. Only new arms requests posed an opportunity for achieving restraint. A gradual decline in non-NATO countries' demands for arms was forecast. Such a decline would assist in the U.S. desire to reduce FMS and commercial arms transfers. New orders were being constrained by the problems a number of countries were experiencing in absorbing the large quantities of new equipment and technology which they had already purchased for their military forces. Administrative, training, and maintenance difficulties as well as financial pressures had been created as a result. Unless major political, economic, or military developments upset the trend, worldwide new orders were projected to level-off at \$10-\$15 billion annually by 1980. A significant reduction from the \$21 billion in sales during 1974 would result if this forecast materialized. However, future political events contributing to global and

regional tensions will have a profound effect on efforts to restrain arms transfers. Nations' continuing perceptions of security needs will determine, in large measure, the level of future arms acquisitions.

Studies concerning the economic effects of restraints, the impact of restraint on U.S. military posture, and the impact of sales on the economic and social development within the recipient nations were addressed in annexes to the President's report. These studies were based on hypothetical sales levels to determine possible effects because precise information was not available. The report concluded that, although there were costs and risks associated with an unrestrained arms transfer policy, other costs and risks might be encountered while practicing a policy of restraint. The security assistance issues involved dilemmas where there were no easy or penalty-free solutions. The problem was to design a policy which would achieve restraint while preserving the advantages which accrued from arms transfers (114:i-iii,4-21,Annex 2, p. 1).

Questions were raised as to whether the President had found the solution to this problem when, in July, the Administration granted approval for Iran to buy seven Airborne Warning and Control System (AWACS) aircraft (54:11). Senators Eagleton (D., MO) and Culver (D., IA) immediately voiced concern with the approval. They stated this \$1.2 billion sale violated the tenets of the President's policy

for seeking restraint in sales of arms abroad and was contrary to his principles (117:3; 35:5). The President appeared to back off from the decision somewhat when, on 28 July, he agreed to allow Congress more than the mandatory 30 days for reviewing the sale. On the final day of the month, Iran indicated it was withdrawing, at least temporarily, its request for the AWACS. The Iranian action was an angry reaction to the delay in congressional approval of the sale (35:5).

Also in July, the Washington Post reported tentative approval had been reached on another sale. The Administration had agreed to the sale of 60 F-15 supersonic fighters for Saudi Arabia, according to the newspaper account. Public disclosure and proposal submission to Congress was being withheld because the Israeli Prime Minister, Menachem Begin, was visiting Washington. This sale, when announced would certainly be measured against the publicized restraining policy just as had the proposed AWACS sale (38:4). Despite American disapproval of the F-18 aircraft sale to Iran, publicity and criticism of continued FMS transactions were growing anew (54:11).



CHAPTER VI  
SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS  
FOR FURTHER STUDY

Summary

The basic objective of this thesis was to explain why the U.S. Congress enacted the International Security Assistance and Arms Export Control Act of 1976. The Act was intended to:

- (1) Phase out Grant Aid, and its administrative structure abroad, as a general concept;
- (2) Increase congressional oversight of and participation in the sales policies;
- (3) Consider appropriateness of commercial sales so all U.S. arms exports are incorporated into the national sales policy;
- (4) Provide separate authority for continuation of military training as the other aspects of Grant Aid is phased out;
- (5) Afford recipient nations access to defense articles and services by extension of credit sales while transitioning these countries from grants to cash sales (93:11-2).
- (6) Provide the public with more information about government arms sales actions; and

(7) Reduce the cost of military assistance grants (100:10).

To achieve the basic, explanatory objective of the thesis, a review of the international arms trade and the U.S. portion of this trade was examined. Several objectionable practices were identified to the U.S. programs. These characteristics were included to show the reasons for congressional dissatisfaction with the administration and policies of the Security Assistance programs. A chapter was devoted to the pre-1976 legislative efforts to correct deficiencies in these programs. The International Security Assistance and Arms Export Control Act of 1976 was analyzed so its provisions could be viewed in the context of the objections Congress had identified. And, finally, some of the implications of the recent legislation were provided in an effort to assess the future of the Security Assistance programs.

### Conclusions

Insufficient time has elapsed to properly evaluate whether the goals of the International Security Assistance and Arms Export Control Act of 1976 have been achieved. This Act purports to exact greater controls on the conduct of Security Assistance programs. However, sufficient latitude remains with the President to use these programs for foreign policy and national defense considerations.

Several provisions allow the President to circumvent the congressional review and advance notice requirements so long as his actions can be justified in a narrow definition of national interest. More importantly, though, is the ability of the President to establish and maintain rapport with the Congress. So long as these two branches of Government are able to convey their needs to one another, legislation and policies will continue to provide Security Assistance programs fitted to meet national requirements. The President's permission to extend the congressional review period in the case of the AWACS sale to Iran is viewed as an effort to improve these working relations.

As the AWACS case illustrates, the congressional thirty-day review period appears to be insufficient. Congress has been unable to disallow any sale within the prescribed time frame. Therefore, it appears the oversight provision is unworkable except that it provides a mechanism for greater interaction between the branches of Government. Congress has not stopped a sale which has been approved by the President; however, it has become easier for Congress to communicate any objections to the administration before a final Presidential decision is reached.

Much of Congress' objections to the U.S. position in the arms business is because of the dollar volume of transfers. However, many of these transactions are not for lethal weapons. Training, technical assistance, and

country building projects are included, too. Additionally, the United States is systematic in identifying the full costs of these projects to the Security Assistance programs. One wonders if the other countries involved are as dedicated to accurate costing. The U.S. share of the arms market might be significantly smaller if these other countries accurately reported all costs associated with their arms transfers.

Elimination of MAAGs may terminate some of the initial contact advantages for commercial firms and hamper communications between U.S. military supply sources and recipient countries. However, industry reasons for keeping MAAGs appears to provide Congress with further justification for their elimination; these organizations were never intended to contribute to commercial selling efforts. The authorized Office of Defense Cooperation should continue to provide some assistance to the recipient nation's communications needs. This office will be substantially civilian manned because of the restriction concerning the number of military personnel authorized each office. It remains to be seen if these civilians can establish the necessary rapport with the host country's military personnel so the necessary assistance can be provided.

The lesson for the Department of Defense is that activities concerning Security Assistance programs must be flexible. Changing foreign policy needs of the U.S.

will continue to dictate the role these programs are to play. Economic benefits to the United States cannot be used to justify the status quo because the economic factors are not the reason for Security Assistance. Admittedly this country gains economically from these sales but are only corollary benefits. The purposes of Security Assistance remain the furtherance of U.S. foreign policy and national defense. The only valid justifications of the programs must be in these terms.

Finally, United States Security Assistance programs will continue to play an important role in America's affairs with Free World nations. Even those individuals who object most vehemently with recent conduct of these programs, recognize their importance for securing greater national security and discharging U.S. responsibilities to assist allied and friendly nations in their defense requirements.

#### Recommendations for Further Study

Security Assistance programs, particularly the amount of U.S. Foreign Military Sales, will continue to be in the spotlight due to congressional concern and the administration's pledge to reduce American involvement in the international arms trade. Further research is recommended to assess:

(1) The impact of the International Security Assistance and Arms Export Control Act of 1976 with regard to the recipient countries;

(2) The impact of future legislation on security assistance; and

(3) The Administration's actions in reducing arms transfers through unilateral reductions, and multinational cooperation.

APPENDICES

APPENDIX A

CHRONOLOGY OF WORLD EVENTS IMPORTANT  
TO INTERNATIONAL ARMS TRADE\*

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\*Sources: 47:Frontpiece; 49:516-7; 99:1,245; 103:VIII.



1959

January--Fidel Castro's rebels took over Cuba as former dictator President Fulgencio Batista fled country. Castro became Cuban Premier February 16.

June--Cuba expropriated large landholdings and foreign-owned property.

1960

January-October--Seventeen former colonies of Britain, Belgium, and France became independent African states.

May--U.S. U-2 aircraft piloted by Francis Gary Powers was shot down in Russian territory. Four powers summit meeting collapsed as a result.

July--Congolese Army troops revolted against Belgian officers. Internal strife began.

August--Cyprus gained independence, with Archbishop Makarios as President.

November--John F. Kennedy narrowly defeated Richard M. Nixon in U.S. Presidential election.

1961

February--Murder of Congolese nationalist leader Patrice Lumumba accelerated Congo civil war.

April--Invasion of Cuba by 1,600 rebels, supported by U.S. government, crushed by Cuban Army at Bay of Pigs.

### 1961--Continued

May--South Africa cut ties with Britain, became an independent republic outside Commonwealth.

August--Berlin Wall erected by East Germany to stop refugee flight across the border to the West.

September--Foreign Assistance Act of 1961 was approved.

July--Algeria became independent from France.

October--Fighting between Chinese and Indian soldiers erupted in border areas.

October--President Kennedy announced air and naval quarantine of Cuba in response to the Soviet Union's installation of missile bases there.

October--Soviet leader Khrushchev ordered removal of Soviet missiles from Cuba and the dismantling of all Soviet missile bases.

### 1963

August--Treaty banning nuclear test explosions in atmosphere signed by Britain, U.S., U.S.S.R.

November--South Vietnamese President Ngo Dinh Diem killed in army coup.

November--President Kennedy slain by sniper in Dallas, Texas. Lyndon Johnson became President.

### 1964

March--After riots and fighting between Greeks and Turks in Cyprus, U.N. peacekeeping force was sent to the island.

August--U.S. Navy destroyers reported attack by North Vietnamese gunboats in Gulf of Tonkin; in retaliation U.S. aircraft bombed four military bases. Incident provoked North Vietnamese to enter war in South Vietnam.

### 1965

April--U.S. Marines were sent to Dominican Republic to prevent Communist takeover during civil war.

October--Indonesian Army crushed attempted Communist coup.

November--Rhodesia declared its independence from Great Britain.

### 1966

February--Ghana's army ousted President Kwame Nkrumah; later expelled foreign Communists from country.

March--Indonesian President Sukarno was overthrown by army; General Suharto assumed power.

August--Indonesia and Malaysia officially ended three-year undeclared war.

### 1967

May--Ibo region of Nigeria declared itself independent state of Biafra; fighting between Biafrans and Nigerian troops erupted in July.

### 1967--Continued

June--In Six-Day War, Israel defeated Arab States.

### 1968

January--U.S.S. Pueblo was captured by North Korea.

January--North Vietnam launched Tet (Lunar New Year) offensive in South Vietnam; led to peace talks.

March--My Lai massacre took place.

May--U.S.-North Vietnam peace talks began in Paris.

August--Soviet troops invaded Czechoslovakia and ended liberal reform.

October--Foreign Military Sales Act of 1968 was approved.

November--Richard M. Nixon was elected President of U.S.

### 1969

July--Nixon Doctrine proclaimed at Guam.

October--Nationwide Vietnam Moratorium Day participated in by antiwar demonstrators protesting U.S. involvement in South Vietnam.

### 1970

January--Secessionist region of Biafra surrendered to Nigerian central government after two and one-half-year civil war.

1970--Continued

March--Cambodian Army coup deposed Prince Norodom Sihanouk.

September--Four jet airliners were hijacked over Europe by Arab militants. Some 300 passengers were held as ransom for Arab prisoners. The planes were blown up but most passengers were released.

October--Marxist Salvador Allende Gossens was elected President of Chile.

1971

October--Communist China was admitted to the United Nations.

December--India and Pakistan waged war over revolt of Bangladesh against Pakistani rule. Bangladesh became independent nation.

1972

February--President Nixon visited Communist China, establishing new ties after 22 years of mutual hostility.

May--Nixon agreed to "unlimited" sales to Iran.

May--Nixon became first U.S. President to visit Moscow. He and Soviet leader Brezhnev signed arms limitation treaties and other accords.

August--Last U.S. troops were pulled out of Vietnam, although U.S. Air Force continued to bomb Communist-held areas.

### 1972--Continued

September--Arab terrorists killed 11 Israeli athletes during summer Olympic Games in Munich, Germany.

November--U.S. Presidential election results in return of President Nixon to office.

### 1973

January--Formal peace accords were signed in Paris by North and South Vietnam, the U.S., and the National Liberation Front, ending 12 years of U.S. involvement in Vietnam war.

October--Surprise attack on Israel was launched by Egypt and Syria on Jewish holy day of Yom Kippur. War continued until May 1974.

October--Arab oil-producing nations curtailed oil shipments to industrial nations, deepening energy crisis.

### 1974

April--Portuguese military group under General Antonio de Spínola seized government, ending more than 40 years of dictatorial rule, democratic reforms were initiated.

July--Argentine President Peron died and his wife succeeded him, becoming the first woman president in the Western Hemisphere. She was deposed by a military junta in March 1975.

July--Cypriot troops led by Greek officers deposed Archbishop Makarios as President of Cyprus. Turkey invaded Cyprus. Makarios resumed Presidency in December 1974, but Turks gained control of northern region.

#### 1974--Continued

July--Military rulers in Greece announced return of power to civilians.

August--Richard M. Nixon resigned from office. Vice President Gerald Ford assumed Presidency.

December--Foreign Assistance Act of 1974 was approved.

#### 1975

January--Angola was granted independence, effective 17 November. Guerrilla fighting continued until victory of Soviet- and Cuban-backed faction in February 1976.

April--Fighting erupted in Lebanon between Muslims and Christians, beginning a long and bloody civil war.

April--South Vietnamese government surrendered to Communists, ending 29 years of civil war.

June--Mozambique gained independence from Portugal.

November--General Francisco Franco died, ending 36 years of dictatorship in Spain. Designated successor Prince Juan Carlos becomes King.

APPENDIX B

SUMMARY OF AUTHORIZATIONS AND ALLOCATIONS MADE BY THE  
INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORT  
CONTROL ACT OF 1976 COMPARED WITH APPROPRIATIONS  
FOR 1976 AND THE TRANSITION QUARTER (P.L. 94-330)  
(IN MILLIONS OF DOLLARS)\*

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\*Sources: 86:2-7; 96:51-2.



PROGRAM	AUTHORIZATIONS		APPROPRIATIONS	
	FY 1976	FY 1977	FY 1976	FY 77
Military Assistance:				
Program Auth/Approp				
Program Allocations:				
Greece	196.7	177.3	225	27.2
Indonesia	31	33		
Jordan	13	15		
Korea	50	55		
Philippines	55	8.3		
Thailand	17	17		
Turkey	16	16		
Ethiopia	31	50		
Other	6	6		
	6	3.7		
Admin Authorization	32	70		
			Appropriations Included Above	
Intl Military Educ & Training				
Auth/Approp	27	30.2	23	5.75
FMS Financing:				
Auth/Approp	1,039	740	1,065	140
Program Ceiling	2,374.1	2,022.1		
Program Allocation:				
Israel	1,500	1,000	1,500	200

PROGRAM	AUTHORIZATIONS		APPROPRIATIONS	
	FY 1976	FY 1977	FY 1976	FY 77
Security Supporting Assistance:				
Auth/Approp	1,766.2	1,860	1,689.9	269.7
Program Allocations:				
Greece	65	--	65	--
Israel	730	785	700	75
Egypt	705	750	695	100
Zambia	--	27.5	--	--
Zaire	--	27.5	--	--
Jordan	--	--	72.5	60
Syria	--	--	80	15
Middle East Special Requirements Fund:				
Auth/Approp	50	35	50	10
Allocation: UNRWA*	12	12	0	
Contingency Fund Authorization	5	5	5	1.25
Cypriot Refugees	10	--	5	

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\*United Nations Relief and Works Agency.

APPENDIX C

STATEMENT BY THE PRESIDENT: CONVENTIONAL  
ARMS TRANSFER POLICY\*

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\*Source: 115

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Office of the White House Press Secretary

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THE WHITE HOUSE

The virtually unrestrained spread of conventional weaponry threatens stability in every region of the world. Total arms sales in recent years have risen to over \$20 billion, and the United States accounts for more than one half of this amount. Each year, the weapons transferred are not only more numerous, but also more sophisticated and deadly. Because of the threat to world peace embodied in this spiralling arms traffic, and because of the special responsibilities we bear as the largest arms seller, I believe that the United States must take steps to restrain its arms transfers.

Therefore, shortly after my Inauguration, I directed a comprehensive review of U.S. conventional arms transfer policy, including all military, political, and economic factors. After reviewing the results of this study, and discussing those results with members of Congress and foreign leaders, I have concluded that the United States will henceforth view arms transfers as an exceptional foreign policy implement, to be used only in instances where it can be clearly demonstrated that the transfer contributes to our national security interests. We will continue to utilize arms transfers to promote our security and the

security of our close friends. But, in the future, the burden of persuasion will be on those who favor a particular arms sale, rather than those who oppose it.

To implement a policy of arms restraint, I am establishing the following set of controls; applicable to all transfers except those to countries with which we have major defense treaties (NATO, Japan, Australia, and New Zealand). We will remain faithful to our treaty obligations, and will honor our historic responsibilities to assure the security of the state of Israel. These controls will be binding unless extraordinary circumstances necessitate a Presidential exception, or where I determine that countries friendly to the United States must depend on advanced weaponry to offset quantitative and other disadvantages in order to maintain a regional balance.

1. The dollar volume (in constant FY 1976 dollars) of new commitments under the Foreign Military Sales and Military Assistance Programs for weapons and weapons-related items in FY 1978 will be reduced from the FY 1977 total. Transfers which can clearly be classified as services are not covered, nor are commercial sales, which the U.S. Government monitors through the issuance of export licenses. Commercial sales are already significantly restrained by existing legislation and Executive Branch policy.

2. The United States will not be the first supplier to introduce into a region newly-developed, advanced weapons systems which would create a new or significantly higher combat capability. Also, any commitment for sale or coproduction of such weapons is prohibited until they are operationally deployed with U.S. forces, thus removing the incentive to promote foreign sales in an effort to lower unit costs for Defense Department procurement.

3. Development or significant modification of advanced weapons systems solely for export will not be permitted.

4. Coproduction agreements for significant weapons, equipment, and major components (beyond assembly of subcomponents and the fabrication of high-turnover spare parts) are prohibited. A limited class of items will be considered for coproduction arrangements, but with restrictions on third-country exports, since these arrangements are intended primarily for the coproducer's requirements.

5. In addition to existing requirements of the law, the United States, as a condition of sale for certain weapons, equipment, or major components, may stipulate that we will not entertain any requests for retransfers. By establishing at the outset that the United States will not entertain such requests, we can avoid unnecessary bilateral friction caused by later denials.

6. An amendment to the International Traffic in Arms Regulations will be issued, requiring policy level authorization by the Department of State for actions by agents of the United States or private manufacturers which might promote the sale of arms abroad. In addition, U.S. and military representatives abroad will not promote the sale of arms and the Secretary of Defense will continue his review of government procedures, particularly procurement regulations, which may provide incentives for foreign sales.

In formulating security assistance programs consistent with these controls, we will continue our efforts to promote and advance respect for human rights in recipient countries. Also, we will assess the economic impact of arms transfers to those less-developed countries receiving U.S. economic assistance.

I am initiating this policy of restraint in the full understanding that actual reductions in the worldwide traffic in arms will require multilateral cooperation. Because we dominate the world market to such a degree, I believe that the United States can, and should, take the first step. However, in the immediate future, the United States will meet with other arms suppliers, including the Soviet Union, to begin discussions of possible measures for multilateral action. In addition, we will do whatever we can to encourage regional agreements among purchasers to limit arms exports.

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BIOGRAPHICAL SKETCH OF THE AUTHORS

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